Khilafah

From the publications of Hizb ut-Tahrir

Contents

THE KHILAFAH 3

THE TIME LIMIT GIVEN FOR MUSLIMS TO APPOINT A KHALEEFAH 14

THE KHILAFAH CONTRACT 16

THE BAYAH 23

CONDITIONS OF THE KHALEEFAH 27

SEEKING THE KHILAFAH 34

THE UNITY OF THE KHILAFAH 35

THE APPOINTMENT OF A SUCCESSOR 38

THE METHOD TO APPOINT A KHALEEFAH 40

THE REMOVAL OF THE KHALEEFAH 56

THE KHILAFAH SYSTEM IS A UNIQUE SYSTEM 59

THE KHILAFAH

The Khilafah is the generalized, collective leadership over all the Muslims of the entire world, to implement the Shariah rulings of Islam, and to convey the Islamic Dawah to the whole world. It is also known as the Imamah. So, Imamah and Khilafah have the same meaning. Many Sahih Ahadith have been specified these two words, with the same meaning. None of these two words differed in their meaning from the other in any Shariah text. This is whether the Shariah text is from the Noble Qur'an or from the Prophetic Sunnah, for they are the only divine texts. However, it is not binding to adhere to either of them. Instead, it is the meaning that has to be adhered to.

Appointing a Khaleefah is obligatory upon all Muslims throughout the world. Executing such a duty, just like executing any other duty which Allah ﷻ has decreed on Muslims is compulsory, in which no choice or complacency is allowed. Failure in performing this duty is one of the gravest sins, which is deserving of Allah's severe punishment. The evidence concerning the obligation of appointing a Khaleefah over all the Muslims is understood from the Noble Quran, the Prophetic Sunnah and the Ijmaa' of the Sahabah.

As for the Noble Quran, Allah ﷻ commanded His Messenger ﷺ to rule the Muslims by all that He ﷻ revealed to him. The command of Allah ﷻ was conveyed in the most decisive manner. Allah ﷻ addressed His Messenger ﷺ, ﴿فَاحْكُمْ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلاَ تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنْ الْحَقِّ﴾ **"And rule between them by that which Allah revealed to you, and do not follow their vain desires away from the truth which came to you".** [TMQ Surah al-Maidah 5:48] He ﷻ said, ﴿وَأَنْ احْكُمْ بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلاَ تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾ **"And rule between them by that which Allah revealed to you and do**

not follow their whims, and beware (be on the alert) that they may deviate you away from even some part of what Allah revealed to you." [TMQ Surah al-Maidah 5:49] The address of Allah ﷻ to His Messenger ﷺ is also an address to the Ummah of the Messenger, unless there exists Shariah evidence that indicates that the address is limited to him. In this case there is no evidence limiting this speech to the Messenger of Allah ﷺ. Thus, the verses call upon Muslims to establish the rule of Allah. The appointment of a Khaleefah does not mean other than the establishment of the rule of Allah and the authority (Sultan) of Islam. Furthermore, Allah ﷻ obliges the Muslims to obey those in authority, the rulers, which is an indication that the existence of a man in authority upon Muslims is obligatory. Allah ﷻ says, ﴿ يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْٓا اَطِيْعُوا اللّٰهَ وَ اَطِيْعُوا الرَّسُوْلَ وَ اُولِى الْاَمْرِ مِنْكُمْ﴾ **"O you who believe obey Allah and obey the Messenger and those in authority amongst you."** [TMQ Surah al-Maaidah 4:59]. Allah ﷻ does not command obedience to those who do not exist. Therefore, the existence of a man in authority is Fard, because ruling with what Allah ﷻ has revealed is an obligation. The order of Allah ﷻ to obey those in authority is also an order to establish them. The implementation of the divine law depends on the presence of the ruler, the man in authority, while neglecting his appointment results in the non-application of the Shariah rulings. Therefore, his presence is obligatory, because that which results due to his absence, is the negligence of the Shariah rulings.

As for the Sunnah, it has been narrated that Nafi' said: Umar told me: I heard the Messenger of Allah ﷺ say, **مَن خَلَعَ يَدًا مِّنْ طَاعَةٍ لَقِيَ اللهَ يَومَ القِيَامَةِ، لَاحُجَّةَ لَهُ، وَمَن مَاتَ وَلَيسَ فِي عُنُقِهِ بَيعَةٌ، مَاتَ مِيتَةً جَاهِلِيَّةً "Whoever takes off his hand from an obedience to Allah, he will meet Him on the Resurrection Day without having any proof for himself; and whoever dies while there was no Bayah on his neck, his death would be that of the days of Jahilyah (ignorance)."** [Narrated

by Muslim] So, the Messenger ﷺ made it obligatory upon every Muslim to have a Bayah on his neck. He described the one who dies without having a Bayah on his neck as if he died the death of Jahiliyyah. The Bayah is not be valid except for the Bayah given to the Khaleefah. The Messenger of Allah ﷺ made it an obligation that every Muslim should have a Bayah on his neck for a Khaleefah. However, he ﷺ did not oblige every Muslim to give a Bayah to the Khaleefah. The obligation therefore, is the existence of a Bayah, on the neck of every Muslim. This necessitates the existence of a Khaleefah, who, through his existence, is entitled to a Bayah. Thus, the existence of the Khaleefah is the issue that necessitates a Bayah on the neck of every Muslim, whether he actually gave the Bayah or not. Therefore, the Hadith is evidence that the appointment of a Khaleefah is an obligation and that every Muslim is obliged to have Bayah on his neck. It is not evidence suggesting that giving the Bayah by every Muslim is an obligation. This is because the Messenger of Allah ﷺ rebuked the absence of the Bayah of allegiance on the neck of the Muslim till he dies, and not the abstention from giving the Bayah itself.

It was narrated from Al-Araj, from Abu Hurrairah, from the Prophet ﷺ, who said, **إِنَّمَا الإِمَامُ جُنَّةٌ يُقَاتَلُ مِن وَّرَاءِهِ وَيُتَّقَى بِهِ "Indeed the Imam is a shield, from whose behind (one) would fight, and by whom one would protect oneself."** Muslim also reported on the authority of Abu Hazim that he said, "I accompanied Abu Hurayra (ra) for five years, and heard him informing about the Prophet ﷺ who said **كَانَتْ بَنُو إِسْرَائِيلَ تَسُوسُهُمْ الْأَنْبِيَاءُ كُلَّمَا هَلَكَ نَبِيٌّ خَلَفَهُ نَبِيٌّ وَإِنَّهُ لَا نَبِيَّ بَعْدِي وَسَيَكُونُ خُلَفَاءُ فَيَكْثُرُونَ قَالُوا فَمَا تَأْمُرُنَا قَالَ فُوا بِبَيْعَةِ الْأَوَّلِ فَالْأَوَّلِ أَعْطُوهُمْ حَقَّهُمْ فَإِنَّ اللَّهَ سَائِلُهُمْ عَمَّا اسْتَرْعَاهُمْ "The Prophets ruled over the children of Israeel, whenever a prophet died another Prophet succeeded him, but there will be no Prophet after me. There will soon be Khulafa' and they will number many.' They asked: 'what then do you order us?' He said: 'Fulfil the Bayah to them, one after the other and give them their**

dues for Allah will verily account them about what he entrusted them with.'" Ibn Abbas reported that the Messenger of Allah ﷺ said, **مَنْ كَرِهَ مِنْ أَمِيرِهِ شَيْئًا فَلْيَصْبِرْ عَلَيْهِ فَإِنَّهُ لَيْسَ أَحَدٌ مِنْ النَّاسِ خَرَجَ مِنْ السُّلْطَانِ شِبْرًا فَمَاتَ عَلَيْهِ إِلَّا مَاتَ مِيتَةً جَاهِلِيَّةً "If anybody sees in his Ameer something which displeases him, he should remain patient, for he who separates himself from the authority of Islam (Sultan) by even so much as a hand span and dies thereupon, he would die the death of the days of ignorance."** [Narrated by Muslim] In these Ahadith, there is a description of the Khaleefah as being a shield, which is a protection. The description by the Messenger ﷺ of the Imam as a shield is an indication of the benefits of the existence of the Imam. Therefore, it is a command (talab). This is because when Allah ﷻ or His Messenger ﷺ informs us about something that includes a rebuke (dham), this is taken as a command of leaving (tark), which means forbidding (nahi). When the text contains praise (madh), it is taken as a command (Talab) to perform (fi'l). If the commanded action is necessary to implement the divine Shariah ruling, or if its neglect would cause the divine Shariah law to be abandoned, then this command is decisive (jaazim), so thus, it is an obligation. These Ahadith also inform us that those who take care of the political affairs of the Muslims are the Khulafaa.' This means a command to appoint them. They also include the prohibition of Muslims from separating themselves from obedience of the Sultan. This means the ruling for the appointment of a Muslim as a Sultan is a matter of obligation (wajib). The Messenger of Allah ﷺ ordered the Muslims to obey the Khulafaa,' and to fight those who dispute with them regarding their Khilafah. This means that it is an obligation to appoint a Khaleefah, and protect his Khilafah by fighting those who dispute his authority. Muslim reported that the Messenger of Allah ﷺ said, **مَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَثَمَرَةَ قَلْبِهِ فَلْيُطِعْهُ مَا اسْتَطَاعَ فَإِنْ جَاءَ آخَرُ يُنَازِعُهُ فَاضْرِبُوا عُنُقَ الْآخَرِ "Whosoever gave a Bayah to an Imam, giving him the clasp of his hand, and the fruit of his heart shall obey him as long as he can, and if another comes to**

dispute with him, you must strike the neck of that man." Therefore, the command to obey the Imam is an order to appoint him. The command to fight those who dispute with him is a Qareenah (قرينة Contextualizing Evidence) that the command of maintaining the presence of one Khaleefah, is decisive and thus an obligation.

As for the Ijma' of the Sahabah, they (ra) agreed upon the necessity of establishing a successor to the Messenger of Allah ﷺ, after his death. They all agreed to appoint a successor to Abu Bakr, and upon his death, appointing Umar (ra) as successor and upon Uthman's death to appoint Ali (ra) as a successor to him. The Unanimous Consensus of the Sahabah on the appointment of a Khaleefah manifested itself emphatically upon the death of the Messenger of Allah ﷺ. They engaged themselves in appointing a successor to him, even though it is known that the burial of the dead person after his death is obligatory. The Sahabah that were obliged to engage in preparing the burial of the Messenger ﷺ, some of them engaged themselves in appointing a Khaleefah, instead of engaging themselves in preparing the burial of the Messenger of Allah ﷺ. Some Sahabah kept silent about this and participated in the delaying of the burial for two nights, despite having the ability to deny the delay in the burial of the Messenger of Allah ﷺ. This could not have been legitimate unless the appointment of a Khaleefah was more obligatory, than the immediate burial of the dead person. Furthermore, all the Sahabah consented throughout their lives, upon the obligation of appointing the Khaleefah. Although sometimes they differed about the person who should be selected as a Khaleefah, they never disagreed about the fact that a Khaleefah must be appointed, whether in the wake of the death of the Messenger of Allah ﷺ or after the death of each of the Khulafa'a Rashideen. Accordingly, the Unanimous Consensus of the Sahabah (Ijma') is both strong and clear evidence that the appointment of a Khaleefah is obligatory.

Furthermore, establishing the Deen, and implementing the Shariah in every single aspect of life, is an obligation upon Muslims. It is established through evidences definite both in narration and in meaning. This cannot be achieved unless there is a ruler who possesses the authority to do so. Therefore, in this context, the Shariah Qaidah principle states, **مَا لَا يَتِمُّ الْوَاجِبُ إِلَّا بِهِ فَهُوَ وَاجِبٌ 'Whatever is necessary to accomplish a duty, becomes itself a duty.' Thus appointing the Khaleefah is obligatory based on this principle.**

These evidences are explicit about the obligation of the establishment of the ruling, and the authority, amongst Muslims. It is also an obligation to appoint a Khaleefah, who takes charge of the ruling and authority, in order to implement the divine laws. He does not take charge merely for the sake of ruling and authority in themselves. Let us contemplate the following Hadith of the Messenger of Allah ﷺ, **خِيَارُ أَئِمَّتِكُمْ الَّذِينَ تُحِبُّونَهُمْ وَيُحِبُّونَكُمْ وَيُصَلُّونَ عَلَيْكُمْ وَتُصَلُّونَ عَلَيْهِمْ وَشِرَارُ أَئِمَّتِكُمْ الَّذِينَ تُبْغِضُونَهُمْ وَيُبْغِضُونَكُمْ وَتَلْعَنُونَهُمْ وَيَلْعَنُونَكُمْ قِيلَ يَا رَسُولَ اللَّهِ أَفَلَا نُنَابِذُهُمْ بِالسَّيْفِ فَقَالَ لَا مَا أَقَامُوا فِيكُمْ الصَّلَاةَ وَإِذَا رَأَيْتُمْ مِنْ وُلَاتِكُمْ شَيْئًا تَكْرَهُونَهُ فَاكْرَهُوا عَمَلَهُ وَلَا تَنْزِعُوا يَدًا مِنْ طَاعَةٍ "The best of your Imams are those whom you love and they love you, and you pray for them and they pray for you, and the worst of your Imams are those whom you hate and they hate you, and you curse them and they curse you." We asked: 'O Messenger of Allah! Shall we not then raise swords against them?' He said: "No, as long as they establish Salah amongst you. If you see something detestable in their guardianship, detest their action but do not withdraw from their obedience."** [Narrated by Muslim from Auf bin Malik] It was asked, **يَا رَسُولَ اللَّهِ أَفَلَا نُنَابِذُهُمْ بِالسَّيْفِ "O Messenger of Allah! Shall we not then raise swords against them?"** He said, **لَا مَا أَقَامُوا فِيكُمُ الصَّلَاةَ "No, as long as they establish Salah (meaning Islam) among you."**

This Hadith explicitly informs regarding the good and bad leaders, and the prohibition of revolting against them, as long as they established

the Salah. Establishing Salah indicates upholding the Deen and implementing its rulings. Therefore, the obligation upon Muslims to appoint a Khaleefah, to implement the rulings of Islam, and to convey the Message is beyond any doubt, with regards to its evidencing in the sound Shariah texts.

Furthermore, this duty is obligatory because Allah ﷻ made it compulsory upon Muslims to establish the authority of Islam, and to protect the unity of the Muslims. However, this obligation is a collective obligation (farD) of sufficiency (al-kifayah). If some of the people accomplished it, the obligation would be fulfilled. The responsibility would be discharged from the rest of the Ummah. If a section of the Ummah failed to accomplish this obligation, despite their undertaking all the steps required to fulfil it, then it would remain as an obligation upon all the Muslims. No one would be relieved of the duty as long as the Muslims remained without a Khaleefah.

To refrain from appointing a Khaleefah for Muslims is one of the gravest sins. It is an abstention from fulfilling one of the most important duties of Islam. Upon this obligation depends the implementation of the rulings of the Deen and the existence of Islam in life's affairs. The Muslims would be committing a grave sin, if they refrained from establishing a Khaleefah for themselves. If they all agreed to abandon the obligation, the sin would be upon every single Muslim in the entire world. However, if some of the Muslims embarked upon the work to establish a Khaleefah, whilst others did not, the sin would fall from those who work to establish the Khaleefah. The obligation would remain upon them until the Khaleefah is appointed.

The involvement in the work to accomplish the obligation would remove the sin of delaying the accomplishment of the obligation in its due time, as well as the failure to fulfil the obligation. This is because of the involvement in accomplishing the obligation, despite the

compulsion of being prevented from its accomplishment. Those who do not participate in the work to accomplish the duty would be sinful after three days, from the departure of the Khaleefah, until the day the next Khaleefah is appointed.

This is because Allah ﷻ has entrusted them with a duty they neither carried out nor participated in. Thus, they committed a sin and deserve the punishment and humiliation from Allah ﷻ. The sin would duly be upon them for abstaining from working to establish the Khilafah, or from performing the actions that would naturally accomplish it. This is because any Muslim who fails to perform any of his duties quite evidently deserves punishment. This is especially so for the duty by which other duties are implemented, the rulings of the Deen are established, and the Word of Allah ﷻ is raised high in the lands of Islam and throughout the whole world.

With regards to some of the Ahadith concerning isolation from the people, and of confining oneself to adhere to the matters of personal worship alone, these Ahadith do not serve as evidence that permits abstaining from establishing a Khaleefah. They do not remove the sin due to this abstaining. When somebody studies these Ahadith thoroughly he finds them related to the adherence to the Deen, rather than permitting the abandonment of establishing a Khaleefah for the Muslims.

For example, al-Bukhari narrated about Bisr ibn Obaydellah al-Hadhrami that he heard Abu Idrees al-Khoolani say that he heard Huthaifah ibn al-Yaman saying, **كَانَ النَّاسُ يَسْأَلُونَ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ الْخَيْرِ وَكُنْتُ أَسْأَلُهُ عَنْ الشَّرِّ مَخَافَةَ أَنْ يُدْرِكَنِي فَقُلْتُ يَا رَسُولَ اللَّهِ إِنَّا كُنَّا فِي جَاهِلِيَّةٍ وَشَرٍّ فَجَاءَنَا اللَّهُ بِهَذَا الْخَيْرِ فَهَلْ بَعْدَ هَذَا الْخَيْرِ شَرٌّ قَالَ نَعَمْ فَقُلْتُ هَلْ بَعْدَ ذَلِكَ الشَّرِّ مِنْ خَيْرٍ قَالَ نَعَمْ وَفِيهِ دَخَنٌ قُلْتُ وَمَا دَخَنُهُ قَالَ قَوْمٌ يَسْتَنُّونَ بِغَيْرِ سُنَّتِي وَيَهْدُونَ بِغَيْرِ هَدْيِي تَعْرِفُ مِنْهُمْ وَتُنْكِرُ فَقُلْتُ هَلْ بَعْدَ ذَلِكَ الْخَيْرِ مِنْ شَرٍّ قَالَ نَعَمْ دُعَاةٌ عَلَى أَبْوَابِ جَهَنَّمَ مَنْ أَجَابَهُمْ إِلَيْهَا قَذَفُوهُ فِيهَا فَقُلْتُ يَا رَسُولَ اللَّهِ**

صِفْهُمْ لَنَا قَالَ نَعَمْ قَوْمٌ مِنْ جِلْدَتِنَا وَيَتَكَلَّمُونَ بِأَلْسِنَتِنَا قُلْتُ يَا رَسُولَ اللَّهِ فَمَا تَرَى إِنْ أَدْرَكَنِي ذَلِكَ قَالَ تَلْزَمُ جَمَاعَةَ الْمُسْلِمِينَ وَإِمَامَهُمْ فَقُلْتُ فَإِنْ لَمْ تَكُنْ لَهُمْ جَمَاعَةٌ وَلَا إِمَامٌ قَالَ فَاعْتَزِلْ تِلْكَ الْفِرَقَ كُلَّهَا وَلَوْ أَنْ تَعَضَّ عَلَى أَصْلِ شَجَرَةٍ حَتَّى يُدْرِكَكَ الْمَوْتُ وَأَنْتَ عَلَى ذَلِكَ "The people used to ask the Messenger of Allah ﷺ about the good and I used to ask him about the bad in fear that it might catch me. So I said, 'O Messenger of Allah ﷺ! We were in times of jahilliyah and mischief then Allah brought us this good, so is there any mischief after this good?' He ﷺ said, 'Yes.' I said, 'Will there be any good after that mischief?' He said, 'Yes, and it has smoke.' I said, 'What is its smoke?' He said, '(Some) people guide without any guidance, you recognize some (from them) and deny some.' I said, 'Will there be a mischief after that good?' He said, 'Yes, (some) people who invite at the doors of hell, whoever accepted their invitation they throw him in it (hell).' I said, 'O Prophet of Allah ﷺ, describe them to us'. He said, 'They are of our own color and talk our language.' I said, 'What do you order me to do if that caught me?' He said, 'Adhere to the jama'ah of Muslims and their Imam.' I said, 'What if the Muslims have no jama'ah nor an Imam?' He said, 'Then you abandon all those groups, even if you have to grab with your teeth, the trunk of a tree till death comes to you as such.'"

This hadith is clear in its expression that the Prophet ﷺ is ordering Muslims to adhere to the jama'ah of Muslims and to adhere to their Imam, and to leave those who invite people to the doors of hell.

When the questioner asked him that in case the Muslims have no Imam and no jama'ah what stance should he take with those who call at the doors of hell, the Messenger of Allah ﷺ ordered him to abandon these groups, not to disassociate himself from the Muslims, nor to abstain from the action of establishing an Imam. So his order is clear, disassociate yourself from all those groups, and he emphasized the extent to which he must dissociate from those groups, even to the extent that his isolation from them would make him grab onto the

trunk of a tree until death comes to him. It means adhere to your Deen by staying away from the misleading callers who are at the doors of hell. In this hadith there is no excuse or permission to abandon the work for establishing a Khaleefah. Instead, it is confined to the command of adhering to the Deen, and abandoning the callers at the doors of hell. The sin will remain on him if he does not work to establish a Khaleefah. So, he is ordered to abandon the misleading groups in order to save his Deen from the callers to misguidance, even if he had to cling to the trunk of a tree, but not to distance himself from the Muslim community, and abandon the work for establishing the laws of the Deen and establishing an Imam for Muslims. Another example is what al-Bukhari narrated about Abu Said al- Khudri, who said, "The Messenger of Allah ﷺ said, **يُوشِكُ أَنْ يَكُونَ خَيْرَ مَالِ الْمُسْلِمِ غَنَمٌ يَتْبَعُ بِهَا شَعَفَ الْجِبَالِ وَمَوَاقِعَ الْقَطْرِ يَفِرُّ بِدِينِهِ مِنْ الْفِتَنِ "A time will soon come when the best property of a Muslim will be sheep, which he will take on the top of mountains and the places of rainfall (valleys), so as to flee with his Deen from afflictions."** This does not mean that one should isolate oneself from the Muslim community, and abandon practicing the divine laws, and establishing a Khaleefah for Muslims, when there is no Khilafah on earth. This hadith instead explains what is the best wealth of the Muslim, at the times of Fitan. It does not encourage anyone to distance himself from the Muslims and isolate the people.

Therefore, there is no excuse for any Muslim anywhere in the world to abstain from performing that which Allah ﷻ obliged on him so as to establish the Deen. It is obliged to work to appoint a Khaleefah for the Muslims, when there is no Khilafah in the world, when there is no Khaleefah who implements the rulings of Allah ﷻ to protect the sanctities of Allah, and establishes the rules of the Deen, and unifies the Muslims under the banner of "**لَاإِلَهَ إِلَّا اللهُ مُحَمَّدٌ رَّسُولُ اللهِ**" **"there is no God but Allah and Muhammad is His Messenger."** There is no

excuse in Islam that exempts anyone from working to perform this duty until it is accomplished.

THE TIME LIMIT GIVEN FOR MUSLIMS TO APPOINT A KHALEEFAH

The time limit allowed for the Muslims to appoint a Khaleefah is two nights (هي ليلتان). It is forbidden for a Muslim to spend more than two nights, without having a Bayah on his neck. As for allowing a maximum of two nights, this is because appointing a Khaleefah becomes compulsory from the very moment the former Khaleefah dies, or is removed. However, it is allowed to delay the appointment as long as the Muslims are involved with the task at hand, up to two nights. If the limit exceeds two nights, and a Khaleefah is not appointed by that time, the matter must be examined. If the Muslims were involved in the appointment of a Khaleefah and failed to do so within two nights for compelling reasons beyond their control and ability, then the sin would fall from their necks. This is because they were endeavoring in their task to perform this duty and were compelled against their will to delay the execution of that duty. Ibn Habban and Ibn Majah narrated from Ibn 'Abbas, he said: The Messenger of Allah ﷺ said, **إِنَّ اللَّهَ وَضَعَ عَنْ أُمَّتِي الْخَطَأَ وَالنِّسْيَانَ وَمَا اسْتُكْرِهُوا عَلَيْهِ "Allah has forgiven my Ummah for mistakes and forgetfulness, and what they are forced to do."** However, if they were not involved in the task, they would all be sinful until such a time that a Khaleefah was appointed. Only then would the sin fall from their necks.

As for the fact that the maximum time limit allowed for the Muslims to appoint a Khaleefah is two nights, its evidence is that when Umar (ra) felt that his death was imminent from the stabbing, he delegated the people of the Shura to appoint a Khaleefah, giving them a time limit of two nights, with their conjoined three days (ليلتين بثلاثة أيام). He instructed them to kill anyone who disagreed with the delegated group, once the three days had elapsed. He assigned the execution of

this instruction, regarding killing the one who might disagree, to fifty people from the Muslims. This is despite the fact that the delegated group was formed people of Shura and senior Sahabah (ra). This instruction took place in the presence of the Sahabah. No one of the Sahabah (ra) objected or condemned this instruction. Thus, it became a Unanimous Consensus of the Sahabah, that it is forbidden for Muslims to remain without a Khaleefah for more than two nights, including their conjoined days. The Unanimous Consensus of the Sahabah is Shariah evidence just like the Quran and the Sunnah.

THE CONTRACTING (انعقاد) OF THE KHILAFAH

The Khilafah is a contract based on mutual consent (ridaa) and choice (ikhtiyaar). It is a Bayah of obedience to whoever is entitled to obedience, from amongst the people in authority. It is therefore imperative to have both the consent of the one who is given the Bayah to take the post, as well as the consent of those who give him the Bayah. Thus, it is forbidden to force anyone to become Khaleefah, if he rejected the post of Khilafah. He must not be forced to accept it. Under such circumstances another person must then be considered to fill the post. It is also forbidden to take the Bayah from the people by force, or by using coercion. In such a case, the contract would be invalid. Mutual consent and choice must be observed, without any compulsion, as in any other contract.

However, if the Bayah has been contracted by those whose Bayah is valid, then the Bayah would be contracted. The person for whom the Bayah was given, becomes the person in authority. Obedience to him is an obligation. The subsequent Bayah pledge is that of Obedience (Taa'ah). It is not the Bayah pledge of Contracting (in'iqaad) the Khilafah. Then it is allowed for the Khaleefah to force the people to give him the Bayah of obedience, because it would be imposing obedience to him. This is an obligation under Shariah law.

Thus, in origin, Bayah of contracting is not valid unless it is with consent and choice. As for after the contracting of Bayah to the Khaleefah, there is obedience in submission to the order of the Khaleefah. Coercion is allowed in this obedience, to implement the command of Allah ﷻ. Since the Khilafah is a contract, it is not completed except by a contracting party. This is just as in the judiciary, a person cannot be a judge unless someone appoints him as a judge.

Also, in the imarah, no one can be an amir unless someone appoints him the imarah.

Regarding the Khilafah (Caliphate) no one can be a Khaleefah (Caliph) unless someone appoints him as a Khaleefah. From here, it becomes clear that no one can be a Khaleefah unless the Muslims appoint him. He does not have the powers of the Khilafah unless it is contracted for him. This contract is not completed except by two contracting parties. The first party is the one seeking the Khaleefah and the one who is sought for it. The second party is made up of the Muslims who are consenting of him as their Khilafah. That is why the Khilafah must be established by the Bayah pledge of allegiance of the Muslims. Based on this, if a tyrant arises and seizes power by force, he does not thereby become a Khaleefah. This is even if he declares himself Khaleefah of the Muslims. This is because the Khilafah was not established for him by the Muslims. If he takes the Bayah pledge of allegiance from the people by force and coercion, he does not become a Khilafah. This is even if he is pledged allegiance to. This is because the Bayah pledge of allegiance by force and coercion is not considered, and the Khilafah is not established by it. This is because it is a contract of consent and choice that is not completed by coercion and coercion. So it is not established except by the pledge of allegiance by consent and choice. However, if this tyrant is able to convince the people that the interest of the Muslims is in pledging the Bayah of allegiance to him, and that implementing the Shariah rulings requires pledging allegiance to him, and they are satisfied with that, and are consenting, and they pledge the Bayah of allegiance to him willingly and by choice, then he becomes a Khaleefah. This is from the moment he was pledged allegiance to, willingly and by choice. This is even if he initially took power by force and domination. The condition is that the Bayah pledge of allegiance be given and that it be given by choice and by choice, whether the one to whom the pledge of allegiance was given is the ruler and sultan or not.

From reviewing what took place in the Bayah of the 'Khulafaa' Al-Rashideen' and the Unanimous consensus of the Sahabah (Ijmaa'), one can conclude that the Khilafah is contracted by the Bayah. In the Bayah to Abu Bakr (ra), the Bayah from the People of Dissolution and Contracting (ahlul Hall Wal 'Aqd) in Madinah alone was enough to contract the Khilafah. The Muslims of Makkah were not consulted, nor were those living in other parts of the Arabian Peninsula. Indeed, they were not even asked about their opinion concerning the matter. This was also the case in the Bayah to Umar (ra). With regards the Bayah to Uthman (ra), 'Abdul Rahman Ibnu 'Awf (ra) asked the Muslims of Madinah regarding their opinion and he did not merely content himself by asking the People of Dissolution and Contracting. When the Bayah was taken for 'Ali (ra), most of the people of Madina and Kufa gave him their Bayah, and he was singled out in the Bayah. His Bayah was valid even for those who opposed him, and fought against him, because they neither gave their Bayah to another man, nor did they object to his Bayah. Instead, they demanded revenge for the blood of Uthman (ra). So the ruling regarding them was that they were rebels who withdrew from obedience to the Khaleefah, over one particular issue. In this instance the Khaleefah had to explain the situation to them, and fight against them if they persisted. These rebels did not establish another Khilafah.

All of this occurred in the previous era. The Bayah for the Khaleefah by the people of the capital, to the exclusion of the other regions, in the presence of the Sahabah (ra). This is with the exception of the pledge of allegiance to Imam Ali, when the people of Kufa participated in pledging allegiance to him. Nobody objected to, or condemned, an action that is confined to the people of Madinah. This is considered to be a Unanimous Consensus (Ijmaa') of the Sahabah. It establishes that those who represent the Muslims' opinion in matters relating to ruling, can contract the Khilafah. This is simply because the People of Dissolution and Contracting, as well as the majority of the people of

Madina, were the majority of those who represented the opinion of the Ummah regarding the ruling matters, throughout the territories of the Islamic State at the time.

Therefore, the Khilafah is contracted if the Bayah was taken from those who represent the majority of the Islamic Ummah that lives under the authority of the previous Khaleefah, in whose place another Khaleefah is sought to be appointed, as it was the case at the time of the Khulafaa' Rashideen. Their Bayah would constitute a Bayah of Contracting (in'iqaad). As for the others, once the Khilafah has been contracted, their Bayah would be classed as a Bayah of Obedience (Taa'ah). It is a Bayah of allegiance to the Khaleefah and not a Bayah of Contracting (in'iqaad).

This would be the case if there was a Khaleefah who died, or was removed, and a new Khaleefah was sought to replace him. However, if there was no Khaleefah at all in office, and the Muslims were under obligation to appoint a Khaleefah for them to implement the Shariah rulings, and to convey the Islamic Dawah to the world, which has been the case since the destruction of the Islamic Khilafah in Istanbul (Turkey) in the year 1343 Hijri (1924), every country (qaTar) in the Islamic World would be eligible to give Bayah to a Khaleefah. Thus the Khilafah would be contracted to him. If any country, throughout the Islamic World gave Bayah to a Khaleefah, and the Khilafah was contracted to him, then it would become an obligation on all the Muslims living in all the other countries (aqTaar), to give him the Bayah of Obedience. This is the Bayah of allegiance after the Khilafah was contracted to him, by the Bayah of the Muslims in his country. This is regardless of the size of that country, whether it is large, like Egypt, Turkey and Indonesia, or small like Jordan, Tunisia and Lebanon. However, this country (qaTar) must fulfil four conditions:

Firstly. The authority (سلطان sulTaan) in that country must depend on the Muslims only. It must not depend on a non-Islamic country or a non-Islamic influence.

Secondly. The security (أمان amaan) of the Muslims in that country must be guaranteed in the name of Islam, not in the name of Kufr. This means that the protection of the country, against domestic or foreign threat, must be a protection of Islam solely by a Muslim force, in its capacity as a purely Islamic force.

Thirdly. The implementation of Islam must take place with immediate effect, in a comprehensive and radical manner, and that country must be involved in conveying the Islamic Dawah.

Fourthly. The Khaleefah must fulfil all the contractual conditions, whilst he need not fulfil the conditions of preference, since what matters are the conditions of the contract.

If that country satisfies these four conditions, then the Bayah of that country alone would have established the Khilafah, even if it did not represent the majority of the People of Dissolution and Contracting within the Islamic Ummah. This is because establishing the Khilafah is an obligation of sufficiency. Whoever performs that duty legitimately would then have accomplished the obligation.

Stipulating that the Bayah must be by most of the People of Dissolution and Contracting only applies if the Khilafah existed, and a Khaleefah was sought to succeed the deceased Khaleefah, or one who had been removed. However, if there was no Khilafah at all, and we strive to establish one, then the fact that it was established legitimately, the Khilafah would be contracted to any Khaleefah who fulfilled the contractual conditions, regardless of the number of Muslims who had given him the Bayah. What matters at that point in time is the establishment of a duty that Muslims have neglected for a period that has exceeded three days. Their neglect of that duty strips

them of their right to choose whom they want. Therefore, under these circumstances, whoever performs the obligation, it would be enough for the Khilafah to be contracted by them.

Once the Khilafah was established in that country, and the Khilafah was effectively contracted to a Khaleefah, all the Muslims would be obliged to come under the banner of the Khilafah. They must give their Bayah to the Khaleefah, otherwise they would be sinful before Allah ﷻ. The Khaleefah must invite them to give the Bayah to him. If they were to refuse, then the ruling regarding the rebels (Bughat) would apply to them. The Khaleefah must fight against them, until they entered under his allegiance. If the Bayah were to be given to another Khaleefah in that country, or in any other country for that matter, after the Bayah had been given to the first Khaleefah, whilst the Khilafah had been legitimately contracted to him, with the four conditions being fulfilled, the Muslims are then obliged to fight against the second 'Khaleefah, until he gives his Bayah to the first Khaleefah. It has been narrated on the authority of 'Abdullah Ibn 'Amru Ibnul 'A'as that he heard the Messenger of Allah ﷺ say, **وَمَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَثَمَرَةَ قَلْبِهِ فَلْيُطِعْهُ إِنْ اسْتَطَاعَ فَإِنْ جَاءَ آخَرُ يُنَازِعُهُ فَاضْرِبُوا عُنُقَ الْآخَرِ** **"Whoever pledged allegiance to an Imam giving him the clasp of his hand and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him you must strike the neck of that man."**

The Khaleefah is also the one who unifies the Muslims under the banner of Islam. So once the Khilafah was established, the Jama'ah (community) of the Muslims comes into existence. It becomes an obligation upon the Muslims to join the community. It is a sin to alienate oneself from it. Al-Bukhari and Muslim narrated from Ibnu 'Abbas that the Messenger of Allah ﷺ said, **مَنْ رَأَى مِنْ أَمِيرِهِ شَيْئًا يَكْرَهُهُ فَلْيَصْبِرْ عَلَيْهِ فَإِنَّهُ مَنْ فَارَقَ الْجَمَاعَةَ شِبْرًا فَمَاتَ إِلَّا مَاتَ مِيتَةً جَاهِلِيَّةً** **"If anyone sees in his Ameer something that displeases him, let him remain**

patient. Indeed, whosoever separates himself from the Jama'ah (community) by even so much as a hand span, and dies thereupon, dies the death of Jahiliyah." Muslim also reported on the authority of Ibnu 'Abbas that the Messenger of Allah ﷺ said, **مَنْ كَرِهَ مِنْ أَمِيرِهِ شَيْئًا فَلْيَصْبِرْ عَلَيْهِ فَإِنَّهُ لَيْسَ أَحَدٌ مِنْ النَّاسِ خَرَجَ مِنْ السُّلْطَانِ شِبْرًا فَمَاتَ عَلَيْهِ إِلَّا مَاتَ مِيتَةً جَاهِلِيَّةً "If anyone dislikes something from his Ameer, let him remain patient, for if anyone of the people removed himself from the Sultan, by even so much as a hand span and died thereupon, he has died the death of Jahilyah."** We gather from these two Ahadith that adherence to the Jama'ah (the community) and to the Sultan (authority) are obligatory.

The non-Muslims have no right in the Bayah. This is because it is a Bayah upon Islam, which is a Bayah on the Kitab of Allah ﷻ and on the Sunnah of His Messenger ﷺ. It necessitates Iman (belief) in Islam, in the Kitab and the Sunnah. The non-Muslims can neither be in the ruling positions, nor can they elect the ruler. This is because there is no authority (sabeel) for them over the Muslims. They have no say in the Bayah.

THE BAYAH

The Bayah is an obligation upon all Muslims. It is also the right of every Muslim, male and female. The evidences concerning the Bayah being an obligation are numerous; amongst these is the speech of the Messenger of Allah ﷺ, **وَمَنْ مَاتَ وَلَيْسَ فِي عُنُقِهِ بَيْعَةٌ مَاتَ مِيتَةً جَاهِلِيَّةً** **"Whoever dies while there was no allegiance on his neck dies a death of the days of ignorance (Jahiliyyah)."** [Narrated by Ibn Umar in Muslim] The fact that the Bayah itself indicates that it is the right of the Muslims, is understood from the Bayah itself. It is from the Muslims to the Khaleefah. It is not from the Khaleefah to the Muslims. The Bayah of the Muslims to the Messenger of Allah ﷺ has been confirmed in many Sahih (sound) Ahadith. In Al-Bukhari, it has been reported that Ubadah Ibnus Samit said, **بَايَعْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى السَّمْعِ وَالطَّاعَةِ فِي الْمَنْشَطِ وَالْمَكْرَهِ وَأَنْ لَا نُنَازِعَ الْأَمْرَ أَهْلَهُ وَأَنْ نَقُومَ أَوْ نَقُولَ بِالْحَقِّ حَيْثُمَا كُنَّا لَا نَخَافُ فِي اللَّهِ لَوْمَةَ لَائِمٍ** **"We pledged ourselves in complete obedience to the Messenger of Allah, in weal and woe, and that we would not dispute the matter of authority with its people, that we would speak or stand the truth at all times wherever we were, and that in Allah's service we would fear the censure of any blamer."** In Bukhari, it has been narrated on the authority of Ayyub from Hafsa that Umm Atyya said, **بَايَعْنَا النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَرَأَ عَلَيْنَا { أَنْ لَا يُشْرِكْنَ بِاللَّهِ شَيْئًا } وَنَهَانَا عَنْ النِّيَاحَةِ فَقَبَضَتْ امْرَأَةٌ مِنَّا يَدَهَا فَقَالَتْ فُلَانَةُ أَسْعَدَتْنِي وَأَنَا أُرِيدُ أَنْ أَجْزِيَهَا فَلَمْ يَقُلْ شَيْئًا فَذَهَبَتْ ثُمَّ رَجَعَتْ** **"We gave our Bayah to the Messenger of Allah ﷺ, so he ﷺ recited to us 'they should associate none with Allah' (Al-Mumtahanah:12) and he forbade us from wailing. A woman from amongst us withdrew her hand saying, 'so and so woman has made me happy and I want to reward her.' He said nothing. The woman went then came back."** 'Abu Hurayra reported that the Messenger of Allah ﷺ said, **ثَلَاثَةٌ لَا يُكَلِّمُهُمْ اللَّهُ يَوْمَ الْقِيَامَةِ وَلَا يُزَكِّيهِمْ وَلَهُمْ عَذَابٌ أَلِيمٌ رَجُلٌ عَلَى فَضْلِ مَاءٍ بِالطَّرِيقِ يَمْنَعُ مِنْهُ ابْنَ السَّبِيلِ وَرَجُلٌ**

بَايَعَ إِمَامًا لَا يُبَايِعُهُ إِلَّا لِدُنْيَاهُ إِنْ أَعْطَاهُ مَا يُرِيدُ وَفَى لَهُ وَإِلَّا لَمْ يَفِ لَهُ وَرَجُلٌ يُبَايِعُ رَجُلًا بِسِلْعَةٍ بَعْدَ الْعَصْرِ فَحَلَفَ بِاللَّهِ لَقَدْ أُعْطِيَ بِهَا كَذَا وَكَذَا فَصَدَّقَهُ فَأَخَذَهَا وَلَمْ يُعْطَ بِهَا **"There are three types of people whom Allah would neither talk to, nor would He praise or purify them on the Day of Judgement. They will be subjected to severe punishment. A man who has water to spare and would not give it to the wayfarer. A man who gives his Baya'h to an Imam for his own benefit. If he gave him what he wanted he would be loyal to him, otherwise he would not. And a man who offers another man goods for sale after Asr Salah, swearing by Allah that he was given so much price for it. So he believed him and took the goods, while he was not given that price for it."** [Narrated by Bukhari and Muslim] Al-Bukhari and Muslim narrated from Abdullah Ibnu Umar, he said, كُنَّا نُبَايِعُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى السَّمْعِ وَالطَّاعَةِ يَقُولُ لَنَا فِيمَا اسْتَطَعْتَ **"When we gave our Bayah to the Messenger of Allah ﷺ, to hear and to obey, he used to say to us: 'As much as you can.'"** Al-Bukhari narrated from Jarir Ibnu Abdullah, he said, بَايَعْتُ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى السَّمْعِ وَالطَّاعَةِ فَلَقَّنَنِي فِيمَا اسْتَطَعْتُ وَالنُّصْحِ لِكُلِّ مُسْلِمٍ **"I gave my Bayah to the Messenger of Allah to hear and to obey, so he dictated to me as much as I can, with goodwill advice towards every Muslim.'"** Junada Ibnu Aby Umayya said, دَخَلْنَا عَلَى عُبَادَةَ بْنِ الصَّامِتِ وَهُوَ مَرِيضٌ فَقُلْنَا حَدِّثْنَا أَصْلَحَكَ اللَّهُ بِحَدِيثٍ يَنْفَعُ اللَّهُ بِهِ سَمِعْتَهُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ دَعَانَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَبَايَعْنَاهُ فَكَانَ فِيمَا أَخَذَ عَلَيْنَا أَنْ بَايَعَنَا عَلَى السَّمْعِ وَالطَّاعَةِ فِي مَنْشَطِنَا وَمَكْرَهِنَا وَعُسْرِنَا وَيُسْرِنَا وَأَثَرَةٍ عَلَيْنَا وَأَنْ لَا نُنَازِعَ الْأَمْرَ أَهْلَهُ قَالَ إِلَّا أَنْ تَرَوْا كُفْرًا بَوَاحًا عِنْدَكُمْ مِنْ اللَّهِ فِيهِ بُرْهَانٌ **"We entered Ubadah Ibnus Samit's home while he was ill and said to him: 'May Allah cure you, won't you tell us a Hadith that Allah my reward you for, which you heard from the Messenger of Allah?' He said, 'The Messenger of Allah called us and we gave him our Baya'h, and said: of what he took from us that we pledged to hear and obey, in weal and woe, in ease and hardship and in preference to ourselves and that we would not dispute the matter (authority) with its people.' He said, 'unless we witness a flagrant act**

of disbelief which we have proof about from Allah.'" [Narrated by Bukhari and Muslim]

Thus, the Bayah for a Khaleefah is in the hands of the Muslims. It is their right, and they are the ones who give the Bayah. Their Bayah is that which makes the Khilafah contracted upon the Khaleefah. The Bayah is given by a handshake. However, it could also be given in writing. Abdullah Ibnu Dinar said, **شهدت ابن عمر حيث اجتمع الناس على عبد الملك قال كتب إني اقر بالسمع والطاعة لعبد الله عبد الملك أمير المؤمنين على سنة الله وسنة رسوله ما استطعت "I witnessed Ibnu Umar (ra) when people agreed on (the Imarah of) Abdul Malik ibn Marwan, he (ra) said: 'I write herewith that I agree to hear and obey the servant of Allah, Abdul Malik, the Ameer of Believers, according to the Kitab of Allah and the Sunnah of His Messenger, and to the best of my ability.'** The Bayah can also be given by any other means.

However, the Bayah should only be taken from the mature adult, as the Bayah of the child is not valid. Abu Aqeel Zahrah Ibnu Ma'abad reported on the authority of his grand-father Abdullah Ibnu Hisham who lived during the time of the Messenger of Allah, that, **وَذَهَبَتْ بِهِ أُمُّهُ زَيْنَبُ بِنْتُ حُمَيْدٍ إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ يَا رَسُولَ اللَّهِ بَايِعْهُ فَقَالَ هُوَ صَغِيرٌ فَمَسَحَ رَأْسَهُ وَدَعَا لَهُ "his mother Zainab Ibnatu Hamid took him to the Messenger of Allah and said, "O Messenger of Allah, take a Bay'ah from him. Upon this the Messenger of Allah ﷺ said, 'He is a little boy', he wiped over his head and prayed for him."** [Narrated by Bukhari]

As for the wording of the Bayah, this may vary. It is not restricted to any specific wording. It must, however include the commitment that the Khaleefah acts according to the Kitab of Allah ﷻ and the Sunnah of His Messenger ﷺ, and that the person who gives the Bayah must pledge to obey in weal and woe, and in ease and hardship. Once the Bayah is given to the Khaleefah, or the Bayah of the Muslims to him contracted the Khilafah to the Khaleefah, then the Bayah becomes a

trust on the neck of the one who gives the Bayah. Thereafter he is not allowed to withdraw it. It is the right of every Muslim to partake in contracting the Khaleefah. Once the Khaleefah has been contracted, it is not allowed for anyone to withdraw from it. It is not allowed for him even if he wanted to do so. Al Bukhari narrated from Jabir ibn Abdullah, that a Bedouin came and gave Bay'ah to the Messenger of Allah on Islam, but he became ill. So he said, 'Relieve me of my Bayah'' three times. The Messenger of Allah said, **الْمَدِينَةُ كَالْكِيرِ تَنْفِي خَبَثَهَا وَيَنْصَعُ طَيِّبُهَا 'The town (Madinah) is like the mason's furnace bellow. It gets rid of its impurity, and its goodness manifests.'"** Muslim also narrated from Nafi', he said: Abdullah ibn 'Omar said to me: I heard the Messenger of Allah ﷺ say, **مَنْ خَلَعَ يَدًا مِنْ طَاعَةٍ لَقِيَ اللَّهَ يَوْمَ الْقِيَامَةِ لَا حُجَّةَ لَهُ "Whoever withdraws a hand from obedience, he would meet Allah on the day of judgement without having proof for himself."** So breaking the Bayah to the Khaleefah is a withdrawal of the hand from the obedience to Allah ﷻ. However, this is the case if his Bayah to the Khaleefah was a Bayah of Contracting (in'iqaad), or a Bayah of Obedience (Taa'ah) to a Khaleefah, who had been contracted by the Muslims. However, if he pledged himself to a Khaleefah initially, but the Bayah was not contracted to him as the Khaleefah, then he has the right to relieve himself from that Bayah. This is in view of the fact that the Muslims, as a whole, did not accept him. So the prohibition expressed in the Hadith is focused on withdrawing a Bayah to a Khaleefah, not regarding a man upon whom the Khilafah contract was not completed.

CONDITIONS OF THE KHALEEFAH

The Khaleefah must satisfy seven conditions of contracting (in'iqaad) in order to qualify for the Khilafah post, and for the Bayah of Khilafah to him to take place legitimately. These conditions are mandatory. If just one condition is not observed, the contracting (in'iqaad) of the Khilafah would not have taken place. It is considered null and void. The contracting conditions are,

Firstly. The Khaleefah must be Muslim. The post of Khilafah is never allowed for the unbeliever, nor is it allowed to obey him. Allah ﷻ says, **وَلَنْ يَّجْعَلَ اللهُ لِلْكَافِرِيْنَ عَلَى الْمُؤْمِنِيْنَ سَبِيْلاً "Allah never allows the kuffar any way of authority over the believers."** [TMQ An-Nisa: 141]. Ruling is the greatest way of authority for ruler, over the ruled. The term 'lan' (never) means the categorical prohibition of the kafir from taking a post of authority over the Muslims, be it the Khilafah, or any other post of authority. This in turn forbids the Muslims from accepting the kafir to rule over them.

Secondly. The Khaleefah must be male. It is forbidden for a female to be Khaleefah. The Khaleefah must be a man, not a woman. Al-Bukhari reported on the authority of Abi Bakra that he said, Allah ﷻ has given me the privilege of a word which I heard from the Messenger of Allah ﷺ during the days of Al-Jamal (the camel). I was about to join the people of Al-Jamal and fight with them. When the Messenger of Allah ﷺ heard that the people of Persia had appointed the daughter of Chosroes (Kisra), he ﷺ said, **لَنْ يُفْلِحَ قَوْمٌ وَلَّوْا أَمْرَهُمْ امْرَأَةً "People who appoint (Waalaw) a women as their ruler, will never succeed."** If the Messenger of Allah ﷺ foretold the failure to those who assign the running of their affairs to a woman, this indicates a prohibition. This is because it came in the form of reproach to those who give authority over themselves to a woman by negating their success. It indicates

decisiveness in prohibition. So the prohibition of appointing a woman to a position of authority came linked with a connotation (Qareenah) that indicates that the prohibition is decisive (jaazim). Therefore, appointing a woman as a ruler is forbidden (Haram). Appointing a woman to a position of authority in this case means appointing her as Khaleefah, and any other post connected with ruling. This is because this Hadith is related to the issue of ruling, not specific to the appointment of Chosroes's daughter as queen. The Hadith is also not general, covering everything. It is related only to matters regarding ruling and authority. So it does not apply to other than ruling positions.

Thirdly. The Khaleefah must be mature. It is forbidden to appoint a pre-pubescent child. Abu Dawoud narrated from 'Ali Ibnu Abi Talib that the Messenger of Allah ﷺ said, **رُفِعَ القَلَمُ عَن ثَلاثَةٍ عَنِ النَّائِم حَتَّى يَستَيقِظَ وَعَنِ الصَّبِيِّ حَتَّى يَكبُرَ وَعَنِ المُبْتَلى حَتَّى يَعْقِلَ "Accountability is lifted off three persons: The sleeping until he awakes. The boy until he reaches maturity. The insane until he regains his mind.** Therefore, the person for whom the pen is raised is not capable to be responsible for himself. He is not under any liability by Shariah. So it is not allowed for him to become Khaleefah, or to hold any post of authority, for he is not responsible for his own actions. Evidence is also derived from the fact that the Messenger of Allah ﷺ rejected the Bayah of the child. Al-Bukhari narrated from 'Abi Aqeel, Zahra ibn Ma'abed from his grandfather Abdullah Ibnu Hisham who reached the time of the Prophet ﷺ. His mother Zainab bint Humair took him to the Messenger of Allah ﷺ and said, **'O Messenger of Allah! Take his Bayah.' The Messenger of Allah ﷺ said, هو صغير "He is still a little boy", so he stroked his head and prayed for him.** Therefore, if the Bayah of the little boy is not valid, and he cannot give a Bayah to a Khaleefah, he evidently cannot be Khaleefah himself.

Fourthly. The Khaleefah must be sane. It is unlawful for a Khaleefah to be insane because the Messenger of Allah ﷺ said, **رُفِعَ القَلَمُ عَن ثَلَاثَةٍ**

“The pen has been raised off three persons.” He then said, عَنِ المُبتَلٰى حَتَّى يَعْقِلَ “**The insane until he regains reason.”** The person for whom the pen is raised is not under obligation. Also the mind is the condition for responsibility (takleef) and for the validity of transactions (tasarufaat). The Khaleefah alone carries out the actions of the government and implements the Shariah legal responsibilities, so he cannot be insane.

Fifthly. The Khaleefah must be just (‘aadil). It is not allowed for him to be a faasiq (openly disobedient). Justice is an obligatory foundation for contracting the Khilafah, as well as for its continuity. This is because Allah ﷻ has stipulated that the witness must be just. He ﷻ says, **وَاَشهِدُوا ذَوَىْ عَدْلٍ مِّنْكُمْ “And seek the witness of two just men from amongst you”** [TMQ Surah At-Talaq 65:2]. So, if the witness must be just, then the Khaleefah who holds a higher post and rules over the witness himself should, by greater reason (من باب أولى min baab oola), be just. For if justice was stipulated in the witness, its presence in the Khaleefah must exist by greater reason.

Sixthly. The Khaleefah must be free, since the slave is under his master’s sovereignty. So he does not discharge transactions by himself. Therefore, by greater reason, he cannot discharge transactions for other than himself and discharge guardianship (wilayah) over others.

Seventhly. The Khaleefah must be capable (qaadir) enough to undertake the burdens of Khilafah. This is because it is the need of the Bayah. It is not right for an incapable (‘aajiz) person to take the burdens of Khilafah.

The aforementioned are the conditions of contracting (in’iqaad) that are mandatory for the Khaleefah to be appointed. Any other condition, apart from the seven mentioned above, does not constitute a mandatory prerequisite for contracting the Khilafah. Such conditions however, constitute conditions of preference (afDaleeyah), if the texts

relating to them are confirmed, or if they are listed under a ruling that has been confirmed by a sound (sahih) text.

In order for the condition to be a contractual one, it must have evidence that includes a decisive command (Talab jaazim) to indicate that it is obligatory. If the evidence does not include a decisive command, then the condition becomes only one of preference. No evidence containing a decisive command has been found except for those seven conditions. Therefore, they alone constitute the conditions of contracting (in'iqaad).

As for the other conditions, whereby a ruling has been confirmed as sound, these would constitute conditions of preference only. Therefore, the stipulation that the Khaleefah must be a mujtahid is not a contractual condition. This has not been confirmed by a text indicating a decisive command. Moreover, the duty of the Khaleefah is to rule. So he is not in need of his own Ijtihad. He could ask about a ruling, or follow the opinions of a mujtahid and adopt opinions on the basis of his imitation (taqlid). Thus, it is not necessary for him to be a mujtahid. It is, however, preferable for him to be so. However, if he is not a mujtahid, his Khilafah would still be contracted. The Khaleefah neither must be brave, nor a shrewd politician nor an expert in managing the affairs of the people. There are no evidences to back these conditions. They come do not fall under a divine ruling that makes them contractual conditions. It is, however, preferable for the Khaleefah to be brave, with vision and opinion.

The Khaleefah does not also necessarily have to be from Quraysh. As for what has been reported by Al-Bukhari from Mu'awiya that he said, I heard the Messenger of Allah say, **إِنَّ هَذَا الْأَمْرَ فِي قُرَيْشٍ لَا يُعَادِيهِمْ أَحَدٌ إِلَّا كَبَّهُ اللَّهُ عَلَى وَجْهِهِ مَا أَقَامُوا الدِّينَ "Verily this matter is within Quraysh. As long as they implemented the Deen. If anyone were hostile to them, Allah would throw him on his face."** And what Al-Bukhari narrated on the authority of Ibnu Umar that he said: The Messenger of Allah said, **لَا**

يَزَالُ هَذَا الْأَمْرُ فِي قُرَيْشٍ مَا بَقِيَ مِنْهُمْ اثْنَانِ "This matter would still be within Quraysh even if only two of them remained." These and other Ahadith, evidenced sound and related to the Messenger of Allah ﷺ that the authority is amongst the people of Quraysh, have actually come in an informative form, and not an imperative one. Not one Hadith actually carries a decisive request, even though they carry a request. Such a request, however, is not a decisive request because there is no evidence to qualify that. No Hadith has been linked to any connotation (Qareena) that makes it a decisive request. This indicates that it is mandub (recommended), and not fard (obligatory). It is, therefore a condition of preference. It is not a contractual condition.

As for the Messenger of Allah ﷺ saying, **لَايُعَادِيهِم احَدٌ اِلَّا كَبَّهُ اللهُ "If anyone were hostile to them, Allah ﷻ would throw him on his face."** This indicates the decisive prohibition of being hostile to the Quraysh. It is not confirmation to his saying, **"this matter is within Quraysh."** The Hadith says that the matter of ruling is within them. It then proceeds to forbid hostility to them. Also, the word Quraysh is a name (ism). It is not a description (sifah). In the terminology of the Usool of Fiqh (Principles of Jurisprudence), it is known as a title (laqab). The understanding (mafhoom) of the name, which is the understanding of the title, is not considered. This is because the name and the title has no Shariah mafhoom at all. Therefore, the mention of Quraysh does not mean that the position of ruling cannot belong to other than Quraysh. So when the Messenger of Allah ﷺ said, **"Verily this matter is within Quraysh..."** and when he ﷺ said, **"This matter would still be within Quraysh...",** it does not mean that it is wrong for ruling to be in other than Quraysh. It means that it is within Quraysh and, as well, it is valid to be in the hands of others who are not from Quraysh. Thus, specifying the people of Quraysh as rulers does not necessarily mean that others are not valid to rule. Therefore, it is a condition of preference (afdaleeyah) and not a condition (sharT) for contracting (in'iqaad).

Indeed, the Messenger of Allah ﷺ appointed ‘Abdullah Ibn Ruwahah (ra), Zayd Ibnu Harith (ra) and Usama Ibnu Zayd (ra) to positions of ruling. All three were not from Quraysh. Thus, the Messenger of Allah did appoint people from other than Quraysh to positions of ruling. The phrase **“this matter”** (Amr) means the authority. It is the authority to rule. This does not only apply to the post of Khilafah. The Messenger of Allah ﷺ did appoint people from outside Quraysh. This indicates that authority for ruling is not exclusively confined to the people of Quraysh. It is not prevented from others. Therefore, the ahadith have mentioned some of the people who are worthy of the Khilafah post, to indicate their preference. They do not indicate that it is exclusively confined to them. They do not indicate that it is prohibited for other than them. It is narrated in Bukhari that Messenger of Allah ﷺ said, **اِسْمَعُوْا وَاَطِيعُوا وَاِنِ استُعْمِلَ عَلَيكُمْ عَبْدٌ حَبَشِيٌّ كَاَنَّ رَأسَهُ زَبِيبَةٌ “Listen and obey, even if an Abyssinian, whose head is like a raisin, was appointed a ruler over you.”** On the authority of Abu Dharr, he said, **اِنَّ خَلِيْلِيﷺ اَوصَانِيْ اَن اَسمَعَ وَاُطِيعَ‘ وَاِن كَانَ عَبْدًا مُجدَعَ الْاَطْرَافِ “My beloved Muhammad ﷺ advised me to listen and obey, even if he was black, with frail limbs.”** In another narration, **اِن اُمِرَ عَلَيكُم عَبدٌ مُجدَّعٌ اَسْوَدٌ يَقُودُ كُمْ بِكِتَابِ اللهِ فَاسمَعُوا لَهُ وَاَطِيعُوا “If a black person is appointed over you who leads you with the Book of Allah, listen to him and obey him.”** These ahadith clarify that the appointing of the black person as the ruler of Muslims is allowed. So the ahadith indicate that the Khilafah and ruling can be given not only to non-Quraysh, but also to non-Arabs. The above mentioned Ahadith constitute the preference for some people. It does not restrict it for others.

The Khaleefah does not also have to be Hashemi or Alawi. The Messenger of Allah ﷺ appointed people who were neither from Banu Hashim nor from Banu ‘Ali to positions of ruling. When he went out to Tabuk, he appointed Muhammad Ibnu Maslama as Wali over Madinah, who was neither Hashemi nor ‘Alawi. He also appointed Mu’az Ibnu Jabal (ra) and Amru Ibn ul-A’as (ra) over Yemen. Neither were from the

Hashemi nor ‘Alawi. In any case, it has been definitely proven that the Muslims gave the Bayah to Abu Bakr (ra), Umar (ra) and Uthman (ra). ‘Ali gave the Bayah to the three of them, despite the fact that they were not from Banu Hashim. The Sahabah (ra) did not object to giving the Bayah to them. It was not reported that anyone had actually objected giving Bayah to them, because they were neither Hashemis nor ‘Alawis. This is considered a Unanimous Consensus (Ijmaa’) of the Sahabah, including ‘Ali (ra), Ibnu Abbas (ra) and Banu Hashim’s entire household, that the Khaleefah could be from other than a Hashemi or an ‘Alawi. As for the Ahadith expressing a preference of ‘Ali (ra) and the household (bayt) of the Messenger of Allah ﷺ, these do not indicate that the Khilafah can’t be contracted to other than to them. Instead, they indicate that they are preferred and it is not as a condition for the contracting (in’iqaad) of a Khaleefah.

The above clearly indicates that there is no evidence whatsoever stating that there are other conditions for contracting (in’iqaad) apart from the seven previously outlined. Any other condition constitutes a condition of preference. It is not a contractual one, if the text expressing such a condition has been confirmed as sound, or such a condition falls under a ruling (Hukm) derived from a sound text. Under Shariah law, what is mandatory is the contractual condition for the Khilafah to be contracted to the Khaleefah. Apart from this, the Muslims will be told about this when the candidates are presented to them, so that they can elect the one whom they prefer. Any man whom the Muslims choose would be appointed Khaleefah, if the contractual conditions were fulfilled, and nothing other than these.

SEEKING THE KHILAFAH

To seek the Khilafah post and compete over it is lawful for all the Muslims. It is not Makruh. No divine text has ever been cited indicating its prohibition. It has been confirmed that the Muslims competed for it in the courtyard of Banu Saa'idah, whilst the Messenger of Allah ﷺ was lying on his bed after his passing, unburied. It has also been confirmed that the six members of the Shura who were all senior Sahabah (ra) competed over the post, in the presence of the Sahabah (ra). No one reproached them. Instead, they consented to this competition. So, a Unanimous Consensus (Ijmaa'a) of the Sahabah (ra) has been established about the permissibility of competing for the Khilafah post. The permissibility of applying for the post is also established, as is the campaigning for it by, putting forward the arguments and opinions, proposals and similar, with the aim of achieving that goal. As for the prohibition of seeking the Imarah (authority) that came in the Ahadith, it is forbidding the weak persons, like Abu Dharr (ra), who are not deemed suitable for it. However, those who are suitable for the Imarah are permitted to seek it by the evidence of the courtyard of Bani Saa'idah and the incident of the six people of the shura. Furthermore, Amru Ibnul A'as (ra) requested the Messenger ﷺ and he appointed him as Wali. Therefore, the Ahadith are specific to those who are not qualified for the post, whether it was Imarah or Khilafah, the Messenger of Allah did not reproach the one who was qualified for it, and he appointed the one who asked for it. Since the Messenger appointed the Imarah to the one who asked for it. He forbade the seeking of Imarah regarding the one who seeks it from those who are not suitable. Thus, it was not an absolute prohibition.

THE UNITY OF THE KHILAFAH

The Muslims are obliged to live in one state, and be ruled by one Khaleefah. It is forbidden for the Muslims in the world to have more than one state, and more than one Khaleefah. It is also mandatory that the ruling system in the Khilafah State be a system of unity. It is forbidden to be a system of union (federation of states). Muslim reported that the Messenger of Allah ﷺ said, **مَنْ بَايَعَ إِمَامًا فَأَعْطَاهُ صَفْقَةَ يَدِهِ وَثَمَرَةَ قَلْبِهِ فَلْيُطِعْهُ مَا اسْتَطَاعَ فَإِنْ جَاءَ آخَرُ يُنَازِعُهُ فَاضْرِبُوا عُنُقَ الْآخَرِ "Whosoever gave a Bayah to an Imam, giving him the clasp of his hand, and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him, you must strike the neck of that man."** It has also been narrated by Muslim that Arfajah said: "I heard the Messenger of Allah ﷺ say, **مَن أتاكُمْ وأَمْرُكُمْ جَمِيعٌ علَى رَجُلٍ واحِدٍ، يُرِيدُ أنْ يَشُقَّ عَصاكُمْ، أوْ يُفَرِّقَ جَماعَتَكُمْ، فاقْتُلُوهُ "Whoever comes to you while your affair has been united over one man, intending to divide your power or dissolve your unity, kill him."** Muslim has also reported it from Abu S'aid Al Khudri that the Messenger of Allah ﷺ said, **إِذَا بُويِعَ لِخَلِيفَتَيْنِ فَاقْتُلُوا الْآخَرَ مِنْهُمَا "If the Oath of Allegiance (Bay''ah) has been taken for two Khulafaa'', kill the latter of them."** Muslim reported that Abu Hazim said: **I accompanied Abu Hurayra for five years and heard him talking about the Messenger of Allah ﷺ, he said, كَانَتْ بَنُو إِسْرَائِيلَ تَسُوسُهُمْ الْأَنْبِيَاءُ كُلَّمَا هَلَكَ نَبِيٌّ خَلَفَهُ نَبِيٌّ وَإِنَّهُ لَا نَبِيَّ بَعْدِي وَسَيَكُونُ خُلَفَاءُ فَيَكْثُرُونَ قَالُوا فَمَا تَأْمُرُنَا قَالَ فُوا بِبَيْعَةِ الْأَوَّلِ فَالْأَوَّلِ أَعْطُوهُمْ حَقَّهُمْ فَإِنَّ اللَّهَ سَائِلُهُمْ عَمَّا اسْتَرْعَاهُمْ "'The children of Israeel have been governed by Prophets (as). Whenever a Prophet (as) died another Prophet (as) succeeded him. However, there will be no Prophet after me. There will soon be Khulafaa' and they will number many.' They asked: 'What then do you order us?' He said: 'Fulfil allegiance to them one after the other, and give them their dues; for verily Allah will ask them about what he entrusted them with.'"** If Khilafah were

contracted to two Khulafaa' in two lands at the same time, it would not be valid for either of them, because Muslims are not allowed to have two Khulafaa'. It is not correct to say that the Bayah is valid to the one that had it first because the matter is to establish a Khaleefah. It is a race. It is the right for all the Muslims, not the right of the Khaleefah alone. So the matter must be referred back again to the Muslims, to contract one Khaleefah, in the case of contracting two Khulafaa'. It is incorrect to suggest a ballot between them because Khilafah is a contract, and the ballot is not included in the contract. It is incorrect to refer to the saying of the Prophet ﷺ **فُوا بِبَيْعَةِ الْأَوَّلِ فَالْأَوَّلِ "Fulfil Bayah allegiance to them one after the other,"** because in this case, a Bayah pledge is given to two Khulafaa' when there already exists a Khaleefah. So the Bayah pledge is not valid to anyone but the first person, upon whom whose Bayah pledge was contracted. Whoever comes afterwards does not have the Bayah pledge contracted upon him lawfully. The case under discussion is when the Khilafah is contracted upon two Khulafaa,' at the same time, by the majority of the influential people. In this case, the Bayah pledge of each of them was contracted legally, in origin. However, the two contracts are then invalidated. The matter must then be referred to the Muslims again. If they then established the Bayah pledge for one of them, then it is considered contracted anew. It is not considered a confirmation to his previous state. If they established it to other than both of them, then that also becomes a contract. Thus, the matter is a right for all Muslims. It is not a right for the persons who enter in a race for the post. Then there is the case of when two Khulafaa' were established, whilst the majority of the influential people in the affairs of ruling and Khilafah sided with only one of them, and it was they who elected him, whilst the minority were with the other. In this case, the Bayah pledge would be for the one who the majority of the influential people in the matters of ruling elected, whether he was elected first, second or third. This is because he is considered the legal Khaleefah by virtue of the majority of the

influential people electing him. The others must then make a pledge to him for the sake of unity of the Khilafah. Otherwise, Muslims will fight him because the Khilafah is contracted by the Bayah pledge of the majority of the Muslims. He thus becomes a Khaleefah who must be obeyed by all Muslims. It becomes haram (forbidden) to elect another person.

Furthermore, the reality of the ruling is that the majority of the influential people, in whose hands lay the affairs of ruling, are usually found in the capital. This is because that is where the highest affairs of ruling are conducted. So, if the residents of a province or provinces elected another Khaleefah, whilst the Bayah pledge to a Khaleefah in the capital came first, then the Khilafah is contracted upon the Khaleefah on the capital. This is because the Bayah pledge given by the people of the capital is an indication that the majority of the influential people are on his side. The Bayah pledge in this case is for the first Khaleefah. However, in the case that the Khaleefah in the provinces was elected first, the preference is then given to the one who has the majority of influential people on his side. This is because the precedence of the people of the provinces in giving the Bayah pledge weakens the indication that the majority of the influential people are present in the capital. In any case, it is not allowed to retain more than one Khaleefah, even if this leads to fighting the one who did not have the Khilafah contracted upon him.

THE APPOINTMENT OF A SUCCESSOR

The Khilafah post is not contracted to a person by designation, or by being named as a crown prince. It is a contract between the Muslims and the Khaleefah. In order to be contracted, it is stipulated that the Muslims mandatory give the Bayah, whilst the person they gave their Bayah must accept voluntarily. Designation or appointing of a crown prince does not fulfil that. So that cannot contract the Khilafah. Accordingly, the contract of Khilafah is not contracted if a Khaleefah nominated another Khaleefah to succeed him. He does not have the right to contract the Khilafah. Khilafah is the right of the Muslims and not of the Khaleefah. Thus the Muslims contract it to whomsoever they wish. Therefore, it is also wrong for the Khaleefah to designate someone else, as if to promise him the post. It would be giving him something he does not possess. That is forbidden in Shariah law. So, if the Khaleefah designated another Khaleefah, whether he was his son, or his relative, or any other person, this would be forbidden. The Khilafah would not be contracted to him by this. This is because those who have right in the contract, did not convene it. Therefore, it would be an un-commissioned contract and thus invalid.

Then there are the claims that Abu Bakr (ra) had designated Umar (ra) and that Umar had designated the “six,” and that the Sahabah did not object and kept silent, indicating Unanimous Consensus. These claims do not in fact indicate the permissibility of designating or appointing of a crown prince. This is because Abu Bakr (ra) had not designated a Khaleefah. He (ra) merely gave consultation to the Muslims regarding whom they wanted to be their Khaleefah. ‘Ali and Umar were also nominated as candidates. The Muslims then chose Umar (ra) by a majority, during the last three months of Abu Bakr’s Khilafah. After his death, the Muslims came and gave their Bayah to Umar. Only then was

the Khilafah post contracted upon Umar (ra). Up to that moment, before the Bayah, he was not a Khaleefah. The Khilafah had not yet been contracted to him, neither by Abu Bakr's nomination, nor by the choice of Muslims. It was contracted only when they gave him their Bayah and when he accepted it voluntarily. As for Umar's designation of the "six", this was merely a nomination for them. in response to the Muslims' request. Then Abdul-Rahman b. Awf (ra) consulted the Muslims as to which of the six they wanted to become their Khaleefah. Most of them chose 'Ali (ra) if he adhered to the rulings of Abu Bakr (ra) and Umar (ra), otherwise Uthman (ra). When 'Ali (ra) declined to follow the actions of Abu Bakr (ra) and Umar (ra), Abdul Rahman (ra) gave his Bayah to Uthman (ra). Then the Muslims gave him their Bayah. Therefore, the Khilafah was contracted to Uthman (ra) by the people's Bayah. It was contracted neither by Umar's nomination, nor by the people's choice. If people had not given Uthman (ra) their Bayah, and if he had not accepted the Khilafah post. This would not have been contracted. Therefore, the Bayah of the Muslims to the Khaleefah is fundamental. It is forbidden to contract Khilafah by appointing a crown prince, or by designation, for it is a contract of authority (Wilayah) that must fulfil the rules of contracts.

THE METHOD TO APPOINT A KHALEEFAH

When Shariah made it incumbent upon the Ummah to appoint a Khaleefah for it, it also determined the method by which the Khaleefah is appointed for Ummah. This method is evidenced by the Noble Quran, the Sunnah and the Ijmaa' (Unanimous Consensus) of the Sahabah (ra). This method is the Bayah pledge of allegiance. So, the Bayah of the Muslims draws the appointing of the Khaleefah to him, in accordance with the Noble Quran of Allah ﷻ and the Sunnah of the Messenger of Allah ﷺ. The fact that this method is the Bayah is evidenced by the Bayah of the Muslims to the Prophet ﷺ, and from the order of the Messenger (saw) to us to pledge Bayah to the Imam. It is important to stress that the Bayah of Muslims to the Messenger ﷺ was not a Bayah on Prophethood. It was a Bayah over ruling. This is because it was regarding action, and not belief. Therefore, Messenger of Allah ﷺ was pledged an allegiance as a ruler. It was not as a Prophet or a Messenger. This is due to the fact that acknowledgement of the Prophethood and Messengership is linked intrinsically to belief (Iman), and not the action of Bayah. The Bayah to him was only in his capacity as the head of the state. The Bayah was mentioned in the Qur'an and Hadith. Allah ﷻ says, ﴿ يٰٓاَيُّهَاالنَّبِيُّ اِذَا جَآءَكَ الْمُؤْمِنٰتُ يُبَايِعْنَكَ عَلٰٓى اَنْ لَّا يُشْرِكْنَ بِااللّٰهِ شَيْـًٔا وَّلَا يَسْرِقْنَ وَلَا يَزْنِيْنَ وَلَا يَقْتُلْنَ اَوْلَادَهُنَّ وَلَا يَاْتِيْنَ بِبُهْتَانٍ يَّفْتَرِيْنَهٗ بَيْنَ اَيْدِيْهِنَّ وَاَرْجُلِهِنَّ وَلَايَعْصِيْنَكَ فِيْ مَعْرُوْفٍ فَبَايِعْهُنَّ﴾ **"O Prophet! If the (female) believers come to you to take the oath (Bayah) that they will not associate (in worship) anything whatever with Allah, that they will not steal, that they will not commit adultery, that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and they will not disobey you in any just matter (Ma'roof), then receive their oath (Bayah)"** [TMQ: Al-Mumtahana 60:12]. In another verse, Allah ﷻ says, ﴿ اِنَّ الَّذِيْنَ يُبَايِعُوْنَكَ اِنَّمَا يُبَايِعُوْنَ

﴿ اللهَ ۚ يَدُ اللهِ فَوْقَ اَيْدِيْهِمْ **"Verily those who pledge their allegiance to you do no less than pledge their allegiance to Allah: The Hand of Allah is over their hands"** [TMQ Surah Al-Fatha 48:10]. Al-Bukhari narrated: "Ismail told us, Malek told on the authority of Yahya bin Sa'eed who said: Ubadah bin Alwaleed told me, that my father told me on the authority of Ubadah bin-us-Samit who said, **بَايَعْنَا رَسُوْلَ اللهِ عَلَى السَّمْعِ وَالطَّاعَةِ، فِي الْمَنْشَطِ وَالْمَكْرَهِ، وَاَنْ لَّا نُنَازِعَ الْاَمْرَ اَهْلَهُ، وَاَنْ نَّقُوْمَ، اَوْ نَقُوْلَ بِالْحَقِّ حَيْثُمَا كُنَّا لَانَخَافُ فِى اللهِ لَوْمَةَ لَائِمٍ "We have pledged allegiance to the Messenger of Allah to listen and obey in ease and in hardship and that we do not dispute the matter (authority) with its people and that we stand for or speak the truth wherever we were and that in the service of Allah we would fear the blame of no one."** Al-Bukhari also narrated: "'Ali bin Abdullah told us, Abdullah bin Yazid, Saeed bin Abi Ayyoub said: 'Abu Aqeel Zahrah bin Ma'bad on the authority of his grandfather Abdullah bin Hisham who has seen the Prophet, his mother Zainab daughter of Humaid took him to Rasul Allah and said: 'O Messenger of Allah take his Bayah, the Prophet said, **يَارَسُولَ اللهِ! بَايِعْهُ، فَقَالَ النَّبِيُّ ﷺ: "هُوَ صَغِيرٌ" فَمَسَحَ رَأسَهُ وَدَعَالَهُ "He is young', and he stroked over his head and prayed for him.**" Al-Bukhari also narrated: "Abdan told us on the authority of Abi Hamza, from Ala'mash, from Abi Saleh, that Abu Hurayra said: The Prophet said, **ثَلَاثَةٌ لَايُكَلِّمُهُمُ اللهُ يَومَ القِيَامَةِ وَلَا يُزَكِّيهِم وَلَهُم عَذَابٌ اَلِيمٌ: رَجُلٌ عَلى فَضْلِ مَآءٍ بِالطَّرِيقِ يَمْنَعُ مِنهُ ابْنَ السَّبِيلِ، وَرَجُلٌ بَايَعَ اِمَامًا لَايُبَايِعُهُ اِلَّا لِدُنيَاهُ، اِنْ اَعطَاهُ مَايُرِيدُ وَفّى لَهُ، وَاِلَّا لَمْ يَفِ لَهُ، وَرَجُلٌ بَايَعَ رَجُلاً بِسِلْعَةٍ بَعْدَ العَصْرِ، فَحَلَفَ بِاللهِ لَقَد اُعْطِىَ بِهَا كَذَا وَكَذَا فَصَدَّقَهُ فَاَخَذَهَا وَلَمْ يُعطَ بِهَا "There are three types of people whom Allah would not talk to nor would He praise or purify them on the Day of Judgement. They will be subjected to severe punishment. A man who has water to spare and would not give it to the wayfarer. A man who gives his Bayah to an Imam for his own benefit, if he gave him what he wanted he would be loyal to him, otherwise he would not. A man who offers another man goods for sale after Asr prayer,**

swearing by Allah that he was given so much price for it, and so he believed him and took the goods, while he was not given that price for it.'" [Narrated by Bukhari and Muslim] These three Ahadith are explicit that the Bayah is the method of appointing the Khaleefah. In the Hadith of Ubadah, the Messenger ﷺ took the Bayah to listen and obey. This is with respect to the ruler. In the Hadith of Abdullah b. Hisham he refused his Bayah because he was still a child, which confirms that it is a Bayah over ruling. The Hadith of Abu Hurayra (ra) is explicit that it was a pledge of allegiance to an Imam. The word was mentioned without "the," in the indefinite case, to indicate any Imam. There are other Ahadith that refer to the Bayah of an Imam. In Muslim, it is narrated from Abdullah bin Umar that the Messenger of Allah ﷺ said, **وَمَنْ بَايَعَ اِمَامًا فَاَعْطَاهُ صَفْقَةَ يَدِهٖ وَثَمَرَةَ قَلْبِهٖ، فَلْيُطِعْهُ اِن استَطَاعَ، فَاِنْ جَآءَ آخَرُ يُنَازِعهُ فَاضرِبُوا عُنُقَ الآخَرِ "Whosoever pledges allegiance to an Imam by giving him the clasp of his hand and the fruit of his heart, let him obey him if he is able to do so, but if another comes along to dispute with him, then kill the other."** Also in Muslim, Abu Saeed Al-Khudri said: The Messenger of Allah ﷺ said, **اِذَا بُوْيِعَ لِلْخَلِيْفَتَيْنِ فَاقْتُلُواالْاٰخَرَمِنْهُمَا "If two Khulafa'a' were pledged allegiance, then kill the latter of them."** Muslim narrated on the authority of Abi Hazim who said, **كَانَتْ بَنُوْ اِسرَاءِيلَ تَسُوسُهُمُ الاَنبِيَاءُ كُلَّمَا هَلَكَ نَبِيٌّ خَلَفَهُ نَبِيٌّ وَاِنَّهُ لَا نَبِيَّ بَعدِى وَسَتَكُونُ خُلَفَاءُ فَتَكثُرُ قَالُوا، فَمَا تَأمُرُنَا؟ قَالَ، فُوْا بِبَيْعَةِ الاَوَّلِ فَالاَوّلِ "I accompanied Abu Hurayra five years and I heard him talk about the Prophet saying, 'Banu Israel used to be governed by Prophets, every time a Prophet died, another came after him, and there is not Prophet after me. There will be Khulafa'a' and they will number many.' They said, 'What would you order us to do?' He said, 'Fulfill the Bayah to them one after the other, and give them their due right, surely Allah will account them for that which He entrusted them with.'"** The texts are explicit in the Book and Sunnah that the method of appointing a Khaleefah is by the Bayah. This was understood and practiced by all of the Sahabah (ra). Abu Bakr was pledged a private

Bayah in the hall of Bani Sa'idah, and a public Bayah in the Masjid. Then others who were absent from the Masjid like 'Ali (ra) gave him the Bayah later on. Umar (ra) was also pledged a Bayah from the Muslims, as were Uthman (ra) and 'Ali (ra). So, the Bayah is the only legitimate Shariah method of appointing a Khaleefah for the Muslims.

The practical forms of the procedure of this Bayah are clear from the appointment of the four Khulafaa', who directly succeeded the Prophet ﷺ after his death. They were, Abu Bakr, Umar, Uthman, and 'Ali, may Allah be pleased with them. All of the Sahabah (ra) remained silent to this and accepted it. It is inconceivable that they could have accepted it if it was against the Shariah. This is because it is related to a vital matter, upon which rely the stature of the Muslims and the preservation of the rule by Islam. If we follow the development of the appointment of those Khulafaa', we find that some Muslims had discussions in the courtyard (saqeefah) of Banu Saaidah. Those who were proposed to rule were Sa'd, Abu Ubaydah, Umar, Abu Bakr and none other, may Allah be pleased with them. As a result of the debate, the Bayah was given to Abu Bakr (ra). The next day the Muslims were called to the Masjid and in turn pledged their Bayah. So, the Bayah of the saqeefah (courtyard) was a Bayah of appointment (contract), by which Abu Bakr (ra) became Khaleefah for the Muslims. However, the second Bayah in the Masjid the following day was a Bayah of obedience. When Abu Bakr (ra) felt that his illness carried with it death, he invited the Muslims and consulted them with regards to who could be a Khaleefah for the Muslims after him. The opinion during these consultations was focused on 'Ali (ra) and Umar (ra) and no one else. He (ra) continued in making these consultations for three months. When they were complete and he (ra) knew the opinion of the majority of the Muslims. He (ra) announced to them that Umar (ra) would be the Khaleefah to succeed him. Upon his death directly, the Muslims came to the Masjid and pledged their allegiance to Umar (ra) for Khilafah. So, with this Bayah Umar (ra) became the Khaleefah for

the Muslims. It was neither with the consultations, nor with the announcement of Abu Bakr (ra). When Umar (ra) was stabbed, the Muslims urged him to nominate a Khaleefah. However, he (ra) refused. They were forceful in their insistence. So Umar (ra) relented and nominated six. After his death the nominees delegated one of them, namely Abdul Rahman b. ‘Awf (ra), for consultation and he in turn consulted the Muslims. They chose Uthman (ra) and he became the new Khaleefah. This was neither by the choice of Umar (ra) nor by the announcement of Abdul Rahman (ra). When Uthman (ra) was martyred, the Muslims as a whole pledged allegiance to ‘Ali in Madinah and Kufa. So ‘Ali (ra) became Khaleefah with the Bayah of the Muslims.

So from this, it is clear that the only method, which Islam determined for the appointment of the Khaleefah, is the Bayah with the consent and choice of the Muslims. From this it appears that the practical details to conduct the pledge of Khilafah is the debate among Muslims about who is suitable for the Khilafah. Once the opinion settles upon a list of people, their names will be publicized to the Muslims. After which the popular choice from amongst them is given the pledge, from the people as well as the rest of the nominees. So in the courtyard of Bani Sa’ida the debate was about Sa’d (ra), Abu ‘Ubayda (ra), Umar (ra) and Abu Bakr (ra). Then Abu Bakr (ra) was given the Bayah, which was according to their choice. However, this choice was not binding upon Muslims. The Muslim populace then gave him their Bayah and it was contracted.

Abu Bakr (ra) discussed with the Muslims about ‘Ali (ra) and Umar (ra). Then he (ra) declared the name of Umar, who was then given the Bayah. Umar (ra) suggested that the Khaleefah to be from among the six people. After referring to the Muslims, ‘Abdul Rahman ibn ‘Auf (ra) declared the name of Uthman (ra) who was then given the Bayah. Whereas ‘Ali (ra) was given the Bayah immediately, as the situation

was one of crisis. It was known that no nominee was equivalent to him in the opinion of Muslims when Uthman was martyred. Thus, the matter of Bayah proceeds after debate to establish suitable candidates. Then one of them is elected as a Khaleefah. Then the Bayah is taken for him from the people. Although this matter was evident in the consultations made by Abu Bakr (ra), it also is very clear in the case of the Bayah given to Uthman. Al-Bukhari narrated on the authority of al-Zuhari that Hameed ibn 'Abdul Rahman had informed him that al-Meswar ibn Mahrama told him that the group appointed by Umar had met and consulted. "Abdul Rahman ibn 'Auf had said to them: I am not the one who competes with you for this matter but if you wish I could choose for you one from among you. So, they assigned this to 'Abdul Rahman. When they charged 'Abdul Rahman with this matter, people turned to him to the extent that I did not see anyone who followed this group or stepped behind them. The people turned to 'Abdul Rahman consulting him in those nights until the night of which we woke up in the morning and gave our pledge to Uthman. Al-Meswar said: Abdul Rahman knocked at my door, after part of the night had passed, until I woke up. He said, **أراك نائماً، فوا لله ما اكتحلت هذه الليلة بكبير نوم، انطلق فادع الزبير وسعداً 'I see you sleeping, by Allah; my eyes did not find much sleep last night. Set forth and call al-Zubair and Sa'd.'** I invited them to him. He consulted with them. Then he called me and said, Call 'Ali for me, so I called him. He carried on a conversation with him until the night faded away. Then 'Ali left him with some expectations. 'Abdul Rahman was afraid about something from 'Ali. Then he said call Uthman for me, so I called him. He carried on his conversation with him until they departed as the Muezin called for Fajr prayer. After he lead the people in the Fajr prayer, and the group of six persons met near the Minbar (pulpit), he sent for all the Muhajiroon and Ansar who were present (in Madinah) and sent for the leaders of the army who performed the Hajj pilgrimage that year with Umar. When they met, 'Abdul Rahman recited the preservation from

the Shaytan and said, **يا علي إني قد نظرت في أمر الناس فلم أرهم يعدلون بعثمان فلا تجعلن على نفسك سبيلا** **'O 'Ali! I viewed the matter of the people and did not see them equaling anyone to Uthman, so do not let anything disturb yourself.'** And he said (to Uthman), **أبايعك على سنة الله ورسوله والخليفتين من بعده،** **'I give you the Bayah upon the way of Allah, His Messenger and the two Khulafa'a who came after him.'** So 'Abdul Rahman, the Muhajiroon, the Ansar, the leaders of the army and rest of the Muslims gave him the Bayah."

So the nominees for the Khilafah were limited to the group named by Umar (ra), after the Muslims had asked him to do so. After he withdrew himself from the nomination to the Khilafah, 'Abdul Rahman ibn 'Auf (ra) took the opinion of the Muslims about who would be the Khaleefah. He then announced the name of the person who the Muslims wanted after consulting with them. After he announced the name of the person who the people wanted, the Bayah was given to him. He became Khaleefah by this Bayah. Therefore, the Hukm Shari'i concerning the appointment of the Khaleefah is to limit the nominees for the Khilafah, within those who represent the opinion of the majority of the Muslims. Then their names are presented to the Muslims. They are asked to select one of the nominees to be Khaleefah for all. When it is determined whom the majority of the Muslims have chosen, then the Bayah from all Muslims is taken for him, whether each person had specifically chosen him or not.

This is the method because of the Ijma'a (Unanimous Consensus) of the Sahabah (ra) about Umar limiting the nominees for the Khilafah to six specific persons. It is also because of the Ijma'a of the Sahabah that 'Abdul Rahman determined the opinion of all the Muslims, about who they thought the Khaleefah should be. After a Unanimous Consensus concerning the Bayah had been reached 'Abdul Rahman announced the person elected by the Muslims as a Khaleefah. This is clear when he said, **إني نظرت في أمر الناس فلم أرهم يعدلون بعثمان "I viewed the matter**

of the people and did not see them compare anyone with Uthman." All of these points clarify the Hukm Shari'i concerning the appointment of the Khaleefah.

Two issues remain to be examined; **a. The first issue** is who are the Muslims who appoint the Khaleefah? Are they the People of Dissolution and Contracting, or a certain specific number of Muslims? Or do all of the Muslims appoint the Khaleefah? **b. The second issue** concerns the actions occurring today in elections, such as secret ballots, polling boxes and counting votes. Are these matters consistent with Islam? Does Islam allow them or not?

As for the first issue, Allah ﷻ, has given the authority to the Ummah. He ﷻ made the appointment of the Khaleefah a right and a duty for all Muslims. Allah ﷻ did not make it a right of one particular group to the exclusion of another, nor for one jama'ah, whilst leaving another jama'ah aside. The Bayah is a duty upon all the Muslims. The Prophet ﷺ said, **"وَمَنْ مَاتَ وَلَيْسَ فِيْ عُنُقِهٖ بَيْعَةٌ مَاتَ مِيْتَةً جَاهِلِيَّةً Whoever dies without having a pledge upon his neck would die the death of jahilliyah."** And this is a general command for every Muslim.

Therefore, the People of Dissolution and Contracting (Ahl ul Hali wal Aqd أهل الحل والعقد) do not possess the exclusive right to appoint the Khaleefah. They cannot ignore the rest of the Muslims. Nor do specific persons have the exclusive right. Instead, this right is for all the Muslims with no exception. It even includes the Fujjar (wicked people) and the Munafiqeen (hypocrites), providing they are mature, adult Muslims. The Shariah text came in a general form in this instance. Nothing came to specify the generality, except the refusal of the pledge from the young who have not yet reached the age of puberty. So the text has to be taken generally.

However, it is not a condition that all Muslims practice this right. Whilst it is a duty, because the Bayah is Fard, it is Fard kifayah

(collective duty of sufficiency). It is not Fard ain (individualized duty). Thus, if some of the Muslims fulfil it, the duty falls from the rest of the Muslims. All Muslims must be enabled to practice their right in electing the Khaleefah, regardless of whether they exercise their right or not. In other words, every Muslim must be able to participate in selecting the Khaleefah. So, the issue is to enable the Muslims to carry out the duty of establishing the Khaleefah, which Allah ﷻ prescribed upon them. They must be enabled in such a way that the sin of not fulfilling this duty is removed from their necks. The issue is not the actual participation of all the Muslims in conducting this duty. This is because the duty, which Allah ﷻ prescribed, is to establish the Khaleefah for Muslims by their consent and choice. It is not a requirement for all Muslims to perform it. Two cases can result from this issue. Firstly, the consent of all Muslims in the establishment of the Khaleefah is achieved. Secondly, the consent of all the Muslims about the appointment is not achieved. However, in both cases, the Muslims are able to participate in the appointment.

With regard to the first case no condition is set concerning a specific number required to appoint the Khaleefah. Instead, any number of Muslims can give their Bayah to the Khaleefah. In this Bayah, the consent of the rest of the Muslims is attained by their silence, or by proceeding to obey him, or by anything which implies their consent. It is then that the appointed Khaleefah becomes a Khaleefah for all the Muslims. He will be legally the Khaleefah even if only three people appointed him. This is because collectivity is achieved by carrying out the appointment of the Khaleefah. The consent is achieved by their silence and through obedience or anything similar, on condition that this is accomplished by absolute choice, whilst enabling the expression of opinions fully.

However, if the consent of all the Muslims was not achieved, then the appointment of the Khaleefah would not be accomplished. This is

unless it was performed by a group that represents the consent of the majority of the Muslims, regardless of the number in this group. From here, some Fiqh jurists concluded that the appointment of the Khaleefah is established by the Bayah pledge given to him by the people of influence. They consider the People of Dissolution and Contracting as the group which achieves the consent of the Muslims through the Bayah pledge. They give pledge to any man who fulfils the contractual conditions of the Khilafah. Therefore, it is not the pledge of the People of Dissolution and Contracting, in themselves, which establishes the Khaleefah. Their pledge is not a condition for the legal appointment of the Khaleefah. Instead the pledge of the People of Dissolution and Contracting is an evidence indicating that the consent of the Muslims to the pledge has been achieved. This is because the People of Dissolution and Contracting are considered as representative of the Muslims. And every evidence, which indicates that the consent of the Muslims with the pledge to a Khaleefah is fulfilled, completes the appointment of the Khaleefah, and the appointment of the Khaleefah by this pledge would be legal.

Accordingly, the divine Shariah ruling is to establish the Khaleefah by any gathering whose appointment of the Khaleefah achieves the consent of the Muslims. This is by any indication that established this consent. This is whether this indication is the pledge of the majority of the People of Dissolution and Contracting, the majority of the representative Muslims, or the silent acceptance of the Muslims regarding the group that gave the Bayah pledge, or their hurry to display obedience as a result of the Bayah pledge or by any similar means. This is as long as they were provided with the full facility to freely express their opinions.

It is not a divine Shariah ruling that this gathering must be of only the People of Dissolution and Contracting, nor that they are four or four hundred or more, nor that they must be the residents of the capital or

the regions. Indeed, the divine Shariah ruling is that their pledge fulfils the consent of the majority of Muslims, by any indication, together with enabling them to freely express their opinion fully.

In this context, “all of the Muslims” means those Muslims living in that country, under the rule of the Islamic State. It is those who were the subjects of the previous Khaleefah, if the Khilafah was previously established. It is also those through whom the Islamic State would be re-established, and by whose Bayah the Khilafah would be contracted, if the Islamic State was not established and they had worked towards establishing it so as to resume the Islamic way of life. The Bayah of the other Muslims would not be considered as a condition, nor would their consent be considered as such. This is because they would either be outside the authority of Islam, or living in Dar-ul-Kufr and unable to join Dar-ul-Islam. In either case, they would not have the right to give the Bayah of contract. However, they must give the Bayah of obedience. Those who do not submit to the authority of Islam would be considered rebels (Bughat). Those living in Dar-ul-Kufr were thus evidently unable to achieve the establishment of the Islamic authority. Therefore, they cannot now establish it practically, or join it immediately. Thus, the Muslims who possess the right to exercise the Bayah of contracting, and whose consent is conditional for the Khaleefah to be lawfully appointed, are the ones through whom the authority of Islam effectively gains its establishment. It would be wrong to say that this is an intellectual matter that has no Shariah evidence to back it up. One cannot say this because this is related to the subject of the ruling (مناط الحكم manaT-ul Hukm) and not the ruling itself. Therefore, it is necessary to explain its reality, instead of bringing a Shariah evidence for it. For instance, the eating of carrion meat is forbidden. Now that is the ruling (Hukm). To investigate and determine what constitutes carrion meat would be the subject of the ruling, which is the Manat, or the subject that the ruling is related to. Thus, the Muslims have to establish a Khaleefah. That constitutes the

Shariah ruling. This appointment has to be carried out by consent and choice. That is a ruling too. These are what require evidence. Whereas, if we were to ask who constitutes the Muslims by whom the appointment would be carried out, and what constitutes the matter which makes consent and choice achievable, these would constitute the subject of the ruling (مناط الحكم Manat-ul Hukm). It is the subject for which the 'Hukm' (ruling) had come to deal with. The conformity of the Shariah ruling with the subject makes the ruling achievable and accomplished. So the Manat that the Shariah ruling came for should be investigated by explaining its reality.

It would be incorrect to say that the Manat-ul Hukm is the 'illah (legal reasoning) behind the Hukm (علة الحكم 'illatul Hukm), therefore requiring evidence (daleel). This is incorrect because the subject (Manat) of the ruling is different from the 'illah (legal reasoning) behind the ruling. In fact, there is a great difference between the subject and the legal reasoning. The 'illah is what initiates the ruling to be initiated. It is that matter which indicates the intention of the Legislator behind the ruling. Without any doubt, this requires a Shariah evidence to indicate and understand the intention of the Legislator for initiating the ruling. As for the Manat of the ruling, this is the subject upon which the ruling applies, or to which the ruling is related. In other words, it is the issue that the ruling applies upon. It is neither its evidence nor its 'illah (legal reasoning). It therefore follows that the Manat is the matter that the ruling is attached to. It is the matter for which the ruling is brought to deal with or treat. It is not true to say that the ruling is brought because of it, so as to say that it is the 'illah behind the ruling. Thus, the Manat of the ruling is the non-textual aspect of the Shariah ruling. To realize it would be other than to realize the 'illah. Realizing the 'illah would be to understand the Shariah text that had come to substantiate the 'illah. This is to actually understand the text (naqliyyat). This is not the Manat either. This is because the Manat is completely different from the Naqliyyat. The Manat is the

reality upon which the Shariah ruling applies. For example, alcohol is haram. The divine Shariah ruling is that alcohol is haram (prohibited). However, to investigate that a certain drink is alcohol or not, so as to judge it as haram or not, is an investigation of the Manat. It is necessary to study whether the drink is alcohol, or not, in order to state that it is haram. The investigation of the reality of the alcohol is a verification of the Manat. If one says that the water allowed to use for wudu is the mutlaq (flowing) water, then the Shariah ruling is that the mutlaq flowing water is that water which is allowed for wudu. So, the investigation is as to whether the water is flowing or not. This is in order to judge upon it regarding it being allowed for wudu. It is a verification of the Manat. Therefore, it is necessary to study the water, so as to determine whether it is flowing, or stagnant. This study of the reality of the water is the verification of the Manat (taHqeeq ul-Manaat). Consider the person who had a hadath (discharge) so must make wudu again for the prayer. The verification of whether the person is mohdath (having discharged), or not, is a verification of the Manat (taHqeeq ul-Manat), and so on. Ash-Shatebi said in the book Al-Muwafaqaat, فهذه المواضع وأشباهها مما يقتضي تعيين المناط لا بد فيها من أخذ الدليل على وفق الواقع بالنسبة إلى كل نازلة "These subjects, and their like, from that which mandates determination (ta'yeen) of the Manat must take the evidence from the reality (al-waaqi'ah) of every incident." Ash-Shatebi further states, قد يتعلق الاجتهاد بتحقيق المناط فلا يفتقر في ذلك إلى العلم بمقاصد الشارع كما أنه لا يفتقر إلى معرفة علم العربية لأن المقصود من هذا الاجتهاد إنما هو العلم بالموضوع على ما هو عليه وإنما يفتقر فيه إلى العلم بما لا يعرف ذلك الموضوع إلاّ به من حيث قصدت المعرفة به فلا بد أن يكون المجتهد عارفاً ومجتهداً من تلك الجهة التي ينظر فيها ليتنزل الحكم الشرعي على وفق ذلك المقتضى "Ijtihad could be connected with the verification of the Manat (تحقيق المناط taHqeeq ul-Manat). Thus, it does not require the knowledge of the aims of the Legislator, Allah ﷻ. It also does not require the knowledge of the Arabic language. This is because the aim of this ijtihad is knowing the subject (mawdoo'a) as it is. So it requires the knowledge of what this subject

can't be recognized without. Therefore, the mujtahid has to be knowledgeable and have exerted from this aspect, in order to apply the Shariah ruling (Hukm Shar'i) according to the specific requirement."

The verification of the illah is dependent on the understanding of the divine Shariah text. It came with justification provided with legal reasoning. This is an understanding of the transmitted evidences (نقليات naqaliyaat). It is not the Manat. Instead, the Manat is other than the transmitted evidence. The Manat is meant to be the reality (الواقع) upon which the divine law applies. As an example, we observe that alcohol is haram. However, the verification of whether a particular liquid is alcohol or not is the verification of the Manat. Consider the mutlaq flowing water is that with which wudu can be performed. The verification of whether the water is flowing, or not, is the verification of the Manat. When it is said that the mohdath (the one who discharged) has to make wudu, the verification that the person is mohdath, or not, is the verification of the Manat. Thus, the verification of the Manat is the investigation of the matter that is the subject of the ruling (mawdoo' ul-Hukm). Accordingly, it is not a condition that the one who verifies the Manat be a mujtahid or a Muslim. It is enough that he or she is knowledgeable of the matter. So, the study of who are the Muslims, and whose pledge is evidence of the acceptance or consent for the Khaleefah, is a study about the verification of the Manat.

This is all in regard to the first issue. As for **the second issue**, regarding what occurs nowadays in conducting elections by secret ballot, using polling boxes, the counting of votes and the like, all these are styles to perform the selection by consent and choice. Therefore, they neither enter under the Shariah ruling, nor in the question of the Manat of the Hukm, which is the subject (mawdoo') that the divine ruling came to treat. This matter is not concerned with ruling upon the actions of the

servant (أفعال العباد af'aal al-ibaad). It is also not the subject (mawdoo) upon which the divine Shariah ruling applies. Instead, they are the physical means (وسائل wasaa'il) by which the action of the servant are performed. They are the physical means for the action for which the Address of the Legislator is related to. In this instance, it is the establishment of the Khaleefah by consent. The means must provide a complete facilitation to enable the expression of opinion for this question. Therefore, these styles and means are not part of what the Shariah rulings are sought for. The styles and means are treated as matters for which the general Shariah text has permitted. There is no specifying evidence to forbid them. So these styles and means are mubah (permissible). Thus, Muslims have the right to select these or other styles. Any style which leads to enabling the Muslims to carry out the Fard of appointing the Khaleefah by consent and selection, Muslims are allowed to use. This is unless there is divine Shariah evidence which specifically prohibits the physical means. It is wrong to say that this style is an action of the servant, which must therefore be conducted according to the divine Shariah rulings. This is because the evidence for these actions has come with regards to their origin in generality. Thus, it includes all actions that branch out from that origin. This is unless there is divine Shariah evidence that relates to a subsidiary action. In such a case the action must follow that evidence. An example of this is the Salah prayer. Its evidence is only related to establishing it. It does not include every action included in the Salah. Therefore, there must be an evidence for every action in it. In the case of the action which is a branch (فرع far'a) for an action for which a general evidence applies to its origin (أصل asl), the general evidence applies to all its branches. The prohibition of an action which is a branch requires an evidence to for its prohibition (tahreem).

In the question of elections, the action in origin is the appointment of the Khaleefah by consent and choice. The actions which branch out from them such as polling, using the polling boxes and counting of the

votes and the like, all enter under the rule of the origin. They do not require another evidence. To exclude any of them from the rule of the origin, which is to prohibit them, requires evidence. This is the case for all the styles which are human actions. Concerning the means which are tools like the box in which the voting papers are put, these take the ruling of things (objects) and not the ruling for actions. The ruling for objects is governed by the Qa'idah principle, **الأصل في الأشياء الإباحة ما لم يرد دليل التحريم "Originally things (objects) are permitted unless there exists an evidence of prohibition."** The difference between method (Tareeqah) and style is that method is an action (fa'l). It is considered by itself as an origin (asl), or a branch (far'a), for an action that does not have a general evidence (daleel aam) for its origin. Instead, it has a specifying evidence (daleel khass). The style on the other hand is an action which is a branch of an action, upon which there is a general evidence. The method must therefore depend upon Shariah evidence (daleel) because it is a Shariah ruling. Therefore, it must be adhered to, observed, and closely followed. Muslims have no choice concerning it, unless its ruling is ibaha (permissible). This is different from the style. The style does not depend on Shariah evidence. Instead, it is included in the ruling of its origin. Therefore, it is not obligatory to follow a particular style even if the Messenger of Allah ﷺ did so. Instead, a Muslim is allowed to use any style as long as it leads to the performance of the action. Thus it becomes a branch to the action. Therefore, it is said that the style is determined by the type of action.

THE REMOVAL OF THE KHALEEFAH

The Khaleefah is removed if his status changed in a way that takes him out from the post of the Khilafah, with immediate effect. Removal is an obligation (واجب العزل) regarding the Khaleefah, if his status changes in a way that does not take him out from the post of the Khilafah immediately, but he is not allowed by Shariah to continue in his post. There is a difference between the case that takes the Khaleefah out from the post of the Khilafah immediately, and the case in which the removal is an obligation (واجب العزل). In the first case, obedience is not compulsory as soon as his status changes. In the second case, where removal is an obligation, his obedience remains compulsory, until he is effectively removed. There are three cases that take the Khaleefah out from the post of the Khilafah with immediate effect:

Firstly: If he becomes a “Murtad” (apostate).

Secondly: If the Khaleefah becomes irreversibly insane.

Thirdly: If the Khaleefah is imprisoned by a formidable enemy, and cannot free himself from them, whilst there is no hope of freeing him.

In these three cases, the Khaleefah is taken out of his post of the Khilafah with immediate effect. He must immediately be removed, even if there was no verdict issued for his removal. He is not to be obeyed. His orders must not be executed, by whoever has a evidence that the Khaleefah is under any of these three conditions. However, it is necessary to establish if any of these cases happened to him, and the evidence for that must be established by the Court of Unjust Acts (Madhalim). It would issue its ruling stating that the Khaleefah had been taken out of the post of the Khilafah, and that he must be removed. It thus allows the Muslims to contract the post of Khilafah upon someone else.

As for the matters where the Khaleefah is no longer permitted to continue in office, but do not take him out of his post of the Khilafah, with immediate effect, these are five:

Firstly: If his justness (‘adl) is invalidated by showing manifest signs of Fisq (wrongdoing).

Secondly: If the Khaleefah becomes a female (أنثى) or effeminate (خنثى مشكل).

Thirdly: If the Khaleefah suffers from an unstable mental condition, whereby he loses his sanity at times, but regains sanity at other times. In this case it is forbidden to appoint a caretaker (trustee) or a deputy for him. The contract of Khilafah has been concluded upon his person. So, no one else can act on his behalf.

Fourthly: If the Khaleefah has incapability (ijz) in carrying out his duties of Khilafah for any reason, whether because of a disability, or because of a chronic, incurable disease which prevents him from performing his functions. The point at issue in this case is his inability to carry out his duties. If the Khaleefah was unable to fulfil the contract, his removal becomes compulsory. He becomes as if he did not exist contractually. Also, if he could not perform the duties for which he had been appointed as Khaleefah, the affairs of the Deen and the Muslims’ interests would become suspended, resulting in an evil (Munkar) that has to be removed. This cannot be achieved except by dismissing the Khaleefah. Then the Muslims can contract another Khaleefah in his place. The removal in this case becomes compulsory.

Fifthly: If the Khaleefah becomes coercively subjugated, in a manner that leaves him unable to conduct the affairs of the Muslims, with his own opinion according to the Shariah. If this happened to him, he would then be considered effectively unable to fulfil the duties of Khilafah. This situation would necessitate his removal. The foregoing scenario has been considered to apply in two cases:

The first case is when a member, or members, of his entourage or family gain power over him. They execute the matters arbitrarily. They become high-handed, so that they overpower him, such that he cannot disagree with them. He is forced to follow their opinion. In this case the matter should be examined. If their coercion could be eliminated within a short period of time, he would be allowed to remain in office. This is so as to remove them, and free himself of their influence. If he did this and his ability was restored, he would be allowed to remain in office. Otherwise, he must be removed. He would be subject to immediate removal, if there were no hope of freeing himself from such coercion.

The second case is when the Khaleefah falls prisoner to a formidable enemy, either physically, or by being under his enemy's dominance. In this case the matter must be examined. If there is any hope of freeing himself of the enemy, he would be given time to do so and restore his authority. Otherwise he would be removed. If no hope was in sight, he must be removed immediately.

The Khaleefah must be removed whenever any of the five cases listed above occurs. However, he cannot be removed, except after a verdict has been issued by the "Court of Unjust Acts" (Mazalim), once the evidence is established. The Khaleefah is removed and then the Muslims contract the Khilafah on another individual, within three days.

THE KHILAFAH SYSTEM IS A UNIQUE SYSTEM

This subject of Khilafah is a political study. It is a discussion about the highest post of ruling. It is, of course, a study of the thoughts related to ruling. The non-Muslim reader assesses the truthfulness of the thoughts presented in this book, against nothing other than the reality. However, Muslims must only judge in accordance with the Kitab of Allah ﷻ and the Sunnah of the Prophet ﷺ. It is a manifest error for them to do otherwise. This is the case because the correctness of the thought is not judged by any other thought, unless it is a branch of that thought. Instead, it is either judged according to its concordance with reality, or its concordances with its origin, which is itself confirmed to concord with the reality. Therefore, we warn the reader of the necessity to read these thoughts with accuracy and awareness of the reality, which they express. So while the ruling crisis in the Islamic World is apparent, and the crisis in ruling in many other parts of the world is noticeable, it is worth understanding the thoughts related to ruling. This is so as to realize through contemplation that he arrived at the solution of the ruling crises in the world. He arrives at the best solution for the ruling of human beings and caring for their affairs. To find the sound solution for ruling the people, thought must be directed in a way to limit the criterion for assessment to the concordance with reality, or concordance with the Shariah rulings related to them.

It is wrong to make democracy a standard for the correctness of the thoughts, or to be influenced by its concepts. Democracy has spread in the world to the extent that its name prevailed over all nations as an ideal. The Eastern countries began adopting it after the Western countries adopted it, despite their differences over its meaning. Muslims as a whole have been affected by it, with no difference between those who believe that Muslims contract the Khilafah, or

those who believe that Allah ﷻ and His Prophet ﷺ alone determined whom the Khaleefah will be. Both parties reconcile their opinions to the people in the name of Democracy, or in the name of some of its thoughts. Therefore, we repeat the warning not to take, whilst studying these thoughts, any of these thoughts as a criterion, particularly the thoughts of democracy. For example, some of those who study ruling, have noticed some forms of the governments in the countries familiar to them. They read about other forms of government historically. By logical assumptions, they write about the forms of governments. They claim that if the government was entrusted by all the people, or the majority of them, then this form of government is called 'Democracy.' They claim that if the government was restricted to the hands of a few people, then this form of ruling is called 'dictatorship'. However, if the ruling was delegated to one ruler from whom all others derive their authority, then this form of ruling is called a 'monarchy.' They defined ruling as being both authority and legislation together. Upon these bases, all the various ruling forms were built. From this, the types of states, and unions among states, arise. It also gave rise to types of government, elections, the right of voting, and the like.

These thoughts differ from the Islamic thoughts of ruling, both generally and in details. The difference between them is great. This is because the ruling system in Islam is the Khilafah system. It is a model completely distinguished from any other ruling system. The Shariah, that is applied in establishing the ruling, in caring for the citizens' affairs, and in the external affairs, is from Allah ﷻ. It is neither from the people, nor from a few people, nor from any individual. Every person who embraces Islam has the right to understand this Shariah the way that his knowledge of the Arabic language and the Shariah texts allows. He has the absolute right, within the limits of the Arabic language, and the Shariah texts, to understand what his mind brings him to. His opinion becomes a Shariah ruling binding upon him, and

upon anyone who accepts his understanding of the Shariah ruling, and adopts it. He has the right to govern the people according to it, if he was a ruler or a judge. If the Khaleefah, who is the head of the Islamic state, adopted any Islamic opinion, then the opinion that the Khaleefah adopts alone becomes the law. It becomes a duty upon all the citizens to live according to the adopted opinion, although this does not mean they have to leave their opinions. Instead, they must legally work within the Shariah law, according to the opinion which the Khaleefah has adopted. They submit to that opinion alone. However, they are not prevented from educating the people, with their opinions, and inviting to Islam, according to them. People are left free to think in Islam according to the basis upon which Islam is established, that is the Islamic ‘aqeedah (creed). So they have the right to think regarding Shariah legislation and other matters, provided that everything emanates from the ‘aqeedah.

This is in regard to the legislative and intellectual aspect. However, with regard to ruling, it differs from legislation. It means the Sultan (authority), and not the ruling system. This is because the ruling system falls within legislation. It is from the Shariah rulings. The authority has been assigned by the Shariah to the all of the Muslims, that is to the Ummah, and to every member of the Ummah, male or female. So, every Muslim has right in the authority. Every Muslim has the right to practice this right, whenever it is required. By this right, which the Ummah possesses, it establishes one man over it to implement the Shariah of Allah ﷻ. The Ummah gives him the Bayah pledge upon the Kitab and the Sunnah, by a pledge of choice and consent, between him and the Ummah. The resulting contract, between the Khaleefah and the Ummah, is not a hiring contract. This is because it is a contract to implement the Shariah. It is not a contract to serve and benefit the Ummah. This is even though the implementation of the Shariah is for the Ummah’s service and interest, since Islam is a mercy for the Ummah and all of humanity. It must be noticed that in

the action, upon which the Khilafah contract is concluded, what matters is the implementation of the Shariah. It is not the material benefit of the Ummah. If the Ummah's immediate material benefit disagreed with the Shariah, then the Shariah alone has to be implemented. Therefore, if the Ummah demanded that a Shariah ruling is abandoned, the Khaleefah must enforce the ruling upon the Ummah. If the Ummah left the Shariah, the Khaleefah is obliged to fight the Ummah, until the Ummah returns to the Shariah. This is because he was contracted only to implement the Shariah. The Ummah has no right to depose the Khaleefah as it desires. Instead the Ummah has the right to depose him in certain cases alone. He is removed from the Khilafah in particular cases. He can be fought against in one case only. That is if he were to apply anything other than Islam. So his affair of authority is not within the hands of the Ummah after his contracting. This is despite the fact that the Ummah contracted him to ruling originally. Instead, this affair of authority is then in the hands of the Shariah.

The authority, which is a right for the Ummah, does not end by appointing the Khaleefah. The authority remains with the Ummah. In the case of the existence of the Khaleefah, its manifestation is by taking him to task over his actions, with respect to applying the Shariah and in caring for its affairs, by the styles the Ummah decides upon, within the limits of the Shariah law. He must accept the accounting of the Ummah. He must clarify a situation that the Ummah might complain of and question him about. Even if the Ummah raised arms against him because of that, he is not allowed to fight the Ummah, until he clarifies any suspicion the Ummah holds, over what he considers to be the truth.

This is ruling in Islam. Upon this basis the ruling system is built. It does not lead to many types of states. Instead, it is of itself one form of state. It is a system of unity, not a system of union. It makes it a duty to

struggle to preserve the unity system, and to demolish the confederate union system. Islam does not have types of governments. In fact, it has no governments. The state and the government are in one body, which are the Khaleefah, and his Mu'awinoon (assistants). As for what branches out from this system regarding the method of appointing the Khaleefah, the necessity to guarantee the consent and choice for every Muslim, in electing the Khaleefah, and giving a Baiah pledge to him, and facilitating for the Ummah on an individual basis, this consent and choice, all of these matters came through either Shariah rulings specific to the subject of Khilafah, or Shariah rulings general for every contract, including the contract of Khilafah. Even though the Khilafah system may appear similar to the democratic system, with regard to the freedom in elections, voting and to voice some opinions, it is incorrect to consider the two systems as the same. This is because in the democratic system, these matters result from the liberties. However, in Islam they result from the conditions of the Khilafah contract, and every contract, with consent and choice. If this is not fulfilled in the Khilafah contract, the contract would be invalid. The Khaleefah would not then be legally competent as a Khaleefah.

The difference between guaranteeing freedom in elections, and guaranteeing consent and choice in a contract is that freedom is a ruling regarding the people. So if it is not achieved, it does not affect the validity of the contract. However, guaranteeing consent and choice is a ruling regarding the contract, not a ruling regarding the people. If it is not achieved, then the contract is void and not concluded. Similarly, all the thoughts of Islam differ from the thoughts of Democracy. They simultaneously differ from aristocracy, monarchy, and, of course, from the concept of empire. So if the thoughts of Islam are studied, they have to be studied in their capacity as a ruling system, distinguished from any other system, and with regard to their concordance with the reality of the ruling. This concordance is not with any other form of ruling. Instead, it is a concordance with the reality of a particular form

of ruling. It is that ruling by which man governs humanity practically, and according to the highest level of exalted values, with regard to the Shariah evidences, from which these ruling thoughts have been derived. The Khaleefah is elected by the Ummah to act on its behalf by implementing Shariah. He is the responsible guardian. He is accountable by the Ummah. The Khilafah is a distinct system in which there is no inheritance, immunity, or privileges for anyone. The Khilafah contrasts with democracy which has made man as his legislator, whilst rulers are referred to as gods, and Capitalists manipulate laws.

Upon this basis we ask the reader to study this political subject as a study of a ruling system that is completely distinguished from other systems. This study must without adopting any criterion for the correctness of these thoughts, other than their concordance with the reality of the system that was the most accomplished, compared to any other ruling system mankind has ever been ruled by, or their concordance with the basis from which they emanated, which is the Kitab of Allah ﷻ and the Sunnah of the Messenger of Allah ﷺ.